



Appeal Decision

Site visit made on 1 October 2020

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/A1910/W/20/3252729

Top Common, The Common, Chipperfield, Kings Langley, WD4 9BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr David Sattin against the decision of Dacorum Borough Council.
- The application Ref 19/03052/ROC dated 10 December 2019, was refused by notice dated 17 March 2020.
- The application sought planning permission for a replacement covered manège (re-submission) without complying with conditions attached to planning permission Ref 4/01793/19/MFA dated 3 October 2019.
- The conditions in dispute are Nos 6 and 8 which state that:
(6) The roof/covered Structure to the manège hereby approved shall be removed within 6 months of its use ceasing for the purposes of training competition dressage horses by Mrs. Sattin or her staff, and the demolition materials shall be removed from the site and the land shall be made good to details approved in writing by the LPA.
(8) The development hereby permitted shall be used for the purposes of training competition dressage horses by Mrs Sattin or her staff and for no other purposes.
- The reasons given for the conditions are:
(6) To ensure that the very special circumstances to justify the inappropriate development in the Green Belt remain valid, and if not the Green Belt shall return to the existing open condition in accordance with the NPPF.
(8) In order to ensure that the very special circumstances to justify the inappropriate development in the Green Belt remains valid in accordance with Policy CS5 and the NPPF.

Decision

1. The appeal is allowed and planning permission is granted for a replacement covered manège at Top Common, The Common, Chipperfield, Kings Langley, WD4 9BN, in accordance with application Ref 19/03052/ROC, dated 10 December 2019, without compliance with conditions 6 and 8 previously imposed on planning permission Ref 4/01793/19/MFA dated 3 October 2019 and subject to the conditions set out in the attached schedule.

Procedural matter

2. The decision notice, case officer report, application form and application planning statement all use the word 'ménage' whereas the appeal statement refers to the word 'manège'. The Oxford English Dictionary uses the latter for its description of an enclosed space for the training of horses and the practice

of horsemanship. I have therefore proceeded on the same basis throughout this decision, and replaced the word 'ménage' where previously used.

Background

3. Planning permission was granted for the relocation of the existing manège at the appeal site in 2018¹. Following this a revised scheme was submitted and granted planning permission in October 2019² (for the purposes of this appeal and reasons of simplicity I shall refer to this as the 'original application' in this decision). Conditions 6 and 8 of that permission tied the use of the roof-covered manège structure (the 'manège structure') to the training of competition horses by Mrs Sattin or her staff, and that in the event that this activity ceased, that it should be removed within 6 months.
4. Although the Council considered the manège structure to be inappropriate development in the Green Belt, it was granted on the basis of very special circumstances, namely; - (a) that it would allow a more efficient use of the existing equestrian centre and be located in a concealed position within the site; and (b) that it would provide facilities for dressage competitors at international level. The Council imposed conditions 6 and 8 on the basis that in reaching this decision, it had given substantial weight to the case put forward by Mrs Sattin, in particular her own horse's specific circumstances and needs.
5. The appellant proposes that conditions 6 and 8 be amended to make reference to the owners of Top Common and their staff, rather than specifically to Mrs Sattin. However, in order to address the Council's concerns, the appellant has proposed in their appeal statement that conditions 6 and 8 be further amended to also clarify that the use is for training competition dressage horses at Levels 7, 8 and 9 of the British Horse Society Competition Levels. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* [1980], I am satisfied that the Council and third parties would not be prejudiced by this minor change and as a consequence I have considered the appeal on the basis.

Main issue

6. The main issue is whether varying Conditions 6 and 8 would diminish the weight that should be given to the other considerations put forward by the appellant that led the Council to conclude that very special circumstances existed to justify development in the Green Belt.

Reasons

7. In the original application, the Council gave substantial weight to the case put forward by Mrs Sattin, in particular her own horse's specific circumstances and needs. In view of this, it is understandable that the Council sought to ensure that the permission endured only for the benefit of Mrs Sattin and I am satisfied that if it had determined that it was not possible to impose conditions 6 and 8, it may have reached a different conclusion. The Council's approach to the imposition of a personal permission therefore accords with the Planning Practice Guidance which recognises that there may be exceptional occasions where development not normally permitted may be justified on planning grounds because of who would benefit from the permission.

¹ Ref 4/02084/18/MFA dated 13 December 2018.

² Ref 4/01793/19/MFA dated 3 October 2019.

8. However, the amended conditions now put forward by the appellant would in my view offer an equivalent level of justification for very special circumstances in that the manège would be restricted to use at the very highest levels of the sport of horse dressage (which Mrs Sattin trains at). In reaching this conclusion, I have also given significant weight to the fact that the visual impact of the manège structure would be the same whether it applied to Mrs Sattin or other persons. Furthermore, the amended conditions would continue to alert any future prospective purchaser of Top Common that the use of the structure was restricted and that it would have to be removed if not used for the intended purpose. The objective of preventing permanent harm to the Green Belt from a development not justified on the basis of very special circumstances would therefore be upheld.
9. In view of the above, I conclude that very special circumstances would still exist with the current proposal to vary conditions 6 and 8 in accordance with the amended wording put forward by the appellant. The proposal would therefore comply with Policy CS5 of the Core Strategy³, which seeks, amongst other things, to apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements.
10. I also find that the proposal would accord with Paragraph 143 of the Framework⁴, which states that inappropriate development in the Green Belt should not be approved except in very special circumstances. In reaching this decision, I have, in accordance with Paragraph 144 of the Framework, given substantial weight to the harm to the Green Belt that the manège structure would cause.

Conditions

11. The Planning Practice Guidance makes it clear that decision notices for a grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. The Council has not supplied any information about the status of the other conditions imposed on the original planning permission. In the event that some have been discharged, that is a matter which can be addressed by the parties.
12. I have considered the conditions imposed on the original planning permission and those suggested by the appellant. Aside from conditions 6 and 8, condition 1 has also been amended to restrict the life of the permission to 3 years from the date of the planning permission for the original application. All other conditions remain as originally imposed by the Council.

Conclusion

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed and that conditions 6 and 8 should be varied.

Robert Fallon

INSPECTOR

³ Core Strategy, adopted 25 September 2013, Dacorum Borough Council.

⁴ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

Schedule of Conditions

- 1) The development hereby permitted shall be begun before 3 October 2022.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.
- 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - hard surfacing materials;
 - soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
 - trees and hedges to be retained and measures for their protection during construction works;
 - car parking layouts and other vehicle and pedestrian access and circulation areas;
 - proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines, manholes, supports etc);
 - Any above ground development in association with the rainwater harvesting tanks.

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted.

- 4) Prior to the commencement of the use hereby approved, full details of external and internal lighting shall be submitted and approved. Details shall include full specification, siting of lighting and hours of use. The lighting shall be installed and operated in accordance with agreed details and there shall be no other lighting installed without the specific grant of planning permission.
- 5) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 40% for climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event.

The scheme shall also include:

- Infiltration tests carried out in accordance with BRE Digest 365 at location of the infiltration basin.
 - Detailed surface water calculations to reflect measured infiltration rate for all rainfall events up to and including the 1 in 100 year + climate change event.
 - Detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
 - Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) The roof/covered structure to the manège hereby approved shall be removed within 6 months of its use ceasing for the purposes of training competition dressage horses at Levels 7, 8 and 9 of the British Horse Society Competition Levels by the owners of Top Common or their staff, and the demolition materials shall be removed from the site and the land shall be made good to details approved in writing by the local planning authority.
- 7) Prior to the first occupation of the manège hereby approved, a scheme for the removal and replanting of the existing manège shall be submitted to and approved in writing by the local planning authority. The approved details shall then be implemented before the expiry of 6 months from the date of the first occupation of the manège hereby approved and the use of the existing manège shall cease and land returned to paddock. Details shall include specific planting plans.
- 8) The development hereby permitted shall be used for the purposes of training competition dressage horses at Levels 7, 8 and 9 of the British Horse Society Competition Levels by the owners of Top Common or their staff and for no other purposes.
- 9) Prior to the commencement of any development on site a 'Glint and Glare Report' on the Solar Panels should be provided with regard to the potential for adverse reflection. The applicant will need to demonstrate that no part of the nearby highway will be adversely affected by glaring from the solar panels. Subject to clarification, suitable measures may be required to mitigate against glint and glare.
- 10) The development hereby permitted shall be carried out in accordance with the following approved plans/documents:
- 201 rev A
 - 202
 - 203
 - 204 rev A
 - 205 rev A
 - 206 rev A
 - 207 rev A
 - Planning Statement

End of schedule