



Appeal Decision

Site visit made on 20 January 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/J1860/W/19/3239165

Elm Hill, Sinton Green, Hallow WR2 6NU

- 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 Andrew Sleigh against the decision of Malvern Hills District Council.
 - The application Ref 19/00914/FUL, dated 22 June 2019, was refused by notice dated 10 September 2019.
 - The application sought planning permission for proposed riding area and indoor stabling without complying with a condition attached to planning permission Ref 11/01514/FUL, dated 21 June 2012.
 - The condition in dispute is No 8 which states that: 'The building shall not be sold, let or used separately from the host dwelling, known as Elm Hill, and the arena shall not be made available for use by the general public nor shall the building be hired out as livery accommodation to the general public'.
 - The reason given for the condition is: 'To ensure the use of the building is limited to that which was applied for and to enable the Local Planning Authority to retain control over any future schemes that could adversely impact on the local road network and amenities of the area'.
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Decision

4. The appellant now wishes to explore options to sell the private residence and equestrian centre separately and has sought to vary the wording of Condition 8 of planning permission 11/01514/FUL to remove the restriction relating to selling, letting or using the facility separately from the host dwelling. No changes are proposed regarding restricting use by the general public.

Main Issue

5. The main issue is whether the condition is necessary, relevant to planning and to the development, enforceable, precise and reasonable, having regard to local and national policy.

Reasons

6. The existing riding arena and indoor stabling is a large structure and located in a countryside setting. It is accessed via a private track off a country lane which serves a number of properties, with the host dwelling Elm Hill located approximately 200m to the east of the riding arena. The site is located approximately 1.4km away from the nearest settlement of Sinton Green.
7. The original justification provided by the appellant in relation to the 2012 permission was, amongst other things, to allow the appellant's daughter to exercise and train competition horses, and also to enable on-site security and supervision to be provided from the existing dwelling at Elm Hill. In other words, it was essentially an arena for private use by the occupants of Elm Hill. At that time, it was also argued that because the scheme was essentially a facility tied to the occupiers of Elm Hill to exercise and train competition horses, there would be no adverse effect on the highway. It was also said that there would not be regular journeys by vehicles trailing horse boxes. It was not intended that the scheme would operate as a freestanding facility, separate from Elm Hill, and it was on this basis that the Council originally granted planning permission.
8. Taking into account the above, it seems to me that varying the condition along the lines proposed would have certain consequences. It is likely that if the facility was severed from the dwelling at Elm Hill, there would be an increase in vehicular movements to and from the equestrian building, as users would no longer be on-site, and it would be necessary to travel from other locations to visit and use the facility. It would fundamentally change the basis on which the original permission was granted.
9. I am aware that the Highways Authority did not object to this proposal to vary the condition, but this was based on the information in the current application. However, it was evident from my site inspection that what has been constructed on the site differs from that originally granted permission in 2012. There is stabling accommodation for some 14 horses,

10. Consequently, the potential scale of the operation is greater than that actually originally approved and any consequent impact on local highways commensurately greater. The surrounding road network consists mainly of country lanes which I observed to be narrow at points. I also noted they were frequented by large farm vehicles and horse riders which, although not unexpected in a countryside location, nonetheless impair the efficient operation of the local road network. Given that the facility as built could potentially operate at a significantly larger capacity than was originally envisaged, I cannot be certain that varying the condition in the manner proposed would not have unacceptable highway impacts.
11. The Council has also raised concerns that varying the condition could give rise to future pressure for on-site accommodation to provide proper security and to ensure the welfare of the horses. The Council has attached details of an appeal that was allowed where on-site living accommodation was deemed essential by an Inspector in order to provide the necessary security and welfare for horses³. I note the appellant's comments that there are differences between that operation and the current appeal. I also acknowledge the appellant's submissions that all horses at Elm Hill are kept indoors, rather than outside in paddocks or fields, and so risks are much lower. I also note that CCTV monitoring can take place from remote locations.
12. I appreciate no such proposal for a new dwelling is before me, that each application must be considered on its merits based on evidence submitted at the time, and it would also be inappropriate to judge the future outcome of such an application. Nonetheless, given the importance placed on on-site security and supervision in the original planning application in 2012 for this facility, I do not consider that the Council's fears are totally unfounded. It seems to me that the welfare and security of horses are an important consideration, and it is much easier to attend to any issues arising if on-site accommodation is available nearby. This requirement is currently met by the existing dwelling at Elm Hill but could potentially be lost were this appeal to be allowed.
13. I understand that offering the Elm Hill facility separately for sale or rent from the dwelling might give greater flexibility in terms of marketing potential. However, it is not clear from the evidence why the condition as originally drafted and imposed is no longer applicable or necessary from a planning perspective, or why it no longer meets the tests in Paragraph 55 of the National Planning Policy Framework (the Framework).
14. Overall, for the above reasons, I conclude the condition is necessary, relevant to planning and to the development, enforceable, precise and reasonable, having regard to local and national policy. I cannot be certain that varying the condition along the lines proposed would not result in an unacceptable impact on the safe and efficient operation of the highway network in conflict with Policies SWDP 4 and SWDP 21 of the South Worcestershire Development Plan (2016). Amongst other things, these policies require that the road network should have capacity to accommodate the type and volume of traffic from the development. In addition, were the condition to be varied, the pressure for

future on-site accommodation cannot be discounted. The variation of condition 8 would conflict with Paragraphs 54 and 55 of the Framework.

Conclusion

15. For the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR