



Appeal Decision

Site Visit made on 19 May 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2021

Appeal Ref: APP/E2205/W/20/3264731

Bourkes Place, Egerton Road, Charing Heath, Ashford, TN27 0AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ms Laura Bourke against Ashford Borough Council.
 - The application Ref 20/00713/AS, is dated 25 April 2020.
 - The development proposed is part retrospective change of use of land to a mixed use - equestrian use for rescue and training of horses/small animals with associated operational development comprising of 6-bed stable block, tack room, hay loft and stationing of a mobile home as on site management/security residential accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There has been confusion over the scope of development proposed. The Council and interested parties have commented extensively on a "*Business Proposal*" appended with the application which describes a wider range of activities than on the planning application form. The appeal statement refers to the Business Proposal "*more as a personal aspiration*", and "*something of a misnomer*". The appellant's final comments requests that the Business Proposal be disregarded. I have done so and determined this appeal on the basis of the description on the planning application form.
3. A riding arena 40m x 20m in area is not expressly referred to in the description on the application form but this is clearly shown on the proposed Block Plan (Drawing ref. 02 Rev D) in association with a hardstanding area that encompasses the rest of the operational development proposed. I have regarded the riding arena as part of the proposal.
4. Amended plans were submitted during consideration of the application to adjust the siting of the operational development to prevent obstruction of a public right of way that crosses the site (PROW AW366). Block Plan 02 Rev D shows the final position of the various building elements proposed and an enlarged car parking area.

Main Issues

5. The main issues are:
 - (a) whether there is adequate justification for a rural worker's accommodation on site,

- (b) the effect of the proposal on the rural landscape character and appearance of the area,
- (c) the effect of the proposal on highway safety,
- (d) the impact of the proposal on neighbouring occupiers in relation to noise and disturbance and
- (e) the impact of the proposal on water quality and the Stodmarsh designated habitat site.

Reasons

6. The appeal site has a relatively narrow elongated shape to a northern field near to Egerton Road and a broader southern field. There are currently a large container and two static caravans sited on the northern field. The container is used as storage for hay and feed and one caravan as a secure store for poultry on site. The second caravan is in use as on-site accommodation. All these structures are proposed to be removed and replaced by the new operational development that would be located in the eastern corner of the southern field. There are stables on skids just in the lower part of the northern field. The appeal site is located in the open countryside at the edge of the village of Charing Heath and adjacent to Heath Farm School.

Accommodation

7. A mobile home to provide residential accommodation for an on-site manager and security for livestock is proposed near to the stables. The appellant contends that the need to ensure the animals' welfare is essential and justified in relation to relevant provisions of the Animal Welfare Act 2006, and that the home would be appropriately modest in size. The appellant is currently living on the site and there would appear to have been mobile homes on the land for several years, but the status of these has not been explained.
8. Policy HOU5 of the Ashford Local Plan 2030 (adopted February 2019) (ALP) seeks to constrain the spread of residential development in the countryside but provides exceptions including, "*Accommodation to cater for an essential need for a rural worker to live permanently at or near their place of work in the countryside*". The policy is consistent with Paragraph 79 of the National Planning Policy Framework (the Framework) which also refers to an "*essential need for a rural worker*".
9. I do not doubt that there would be welfare benefits for livestock particularly for vulnerable abandoned horses and rescue animals which are intended to be accommodated. However, the welfare of the animals and site security could also be managed by regular day time visits. Such regular visits would be possible if local affordable accommodation could be found. There is no evidence before me to indicate that this would not be feasible. The Council suggest that there are houses and a school nearby which would provide natural surveillance in relation to security. In my opinion, the location of the stable would be relatively remote and screened and would not benefit from natural surveillance, especially in hours of darkness, although the site access would be more conspicuous. Nonetheless, the necessity for a permanent overnight presence has not been demonstrated as "*essential*" in relation to the scope and scale of activity proposed and other possible options. As such, the proposed mobile home would be contrary to Policy HOU5 and to the Framework.

Landscape character

10. The adjacent site to the east, to the rear of Heath Farm School, has an extant planning approval under ref. 17/01332/AS for the stabling of horses¹ and the Council would not appear to object to the principle of a comparable low key activity at the appeal site. Their concerns relate mainly to the impact of other activities specified in the 'Business Proposal' which do not form part of the proposal before me.
11. The proposal can only be located in the countryside and would be similar in character and appearance to that consented on the adjacent site. The buildings and riding arena would be sited next to the adjacent site in a corner of the field that benefits from screening hedgerows and trees to the site boundary and which would help integration into its landscaped surroundings. The limited scale of the proposal would mean that activity could be largely confined to this part of the site. In these respects, the proposal would not be contrary to Policy EMP5 of the ALP on new employment premises in the countryside; nor would there be conflict with Policy ENV3a of the ALP in relation to impacts on the landscape character of the area. The small scale of the proposal would not result in large scale activity impacting on landscape, traffic and amenity considerations, an issue raised in the Council's adopted 'Stables, Arenas and other Horse Related Development' SPD.

Highway safety

12. Permission 17/01332/AS includes a new access on to Egerton Road that would be shared by the appeal and adjacent sites. Such an access has been provided. It is not for me to determine if this access satisfies all requirements of the Highway Authority and the Stour Internal Drainage Board (IDB) regarding a culvert, but the access provides satisfactory visibility for vehicles entering and leaving the site. Paragraph 109 of the Framework states, "*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". As two day events and other more ambitious activities referred to in the 'Business Proposal' do not form part of the appeal proposal, any vehicular activity would be limited in scale. Its impacts would not be severe or prejudicial to the interests of highway safety.
13. If the appeal was to be allowed it would have been possible to include a condition requiring approval of a layout of the proposed parking area to ensure provision of a sufficient number of spaces, satisfactorily laid out to allow access for service vehicles for deliveries of hay, collection of manure and waste and for access by horse boxes. The proposal's limited scale would not result in traffic or parking concerns that would conflict with Policy EMP5.

Neighbouring occupiers

14. The cluster of buildings around the riding arena would not be so close to Heath Farm School or to dwellings nearest to the site to result in any loss of amenity. The limited scale of the proposal would not result in undue noise or disturbance impacts. There would not be conflict with Policy EMP5 on this issue.

¹ Permission 17/01332/AS for Change of use of land for the keeping of horses, new stable block for 10 horses, associated hay barn and manure storage, hardstanding, new gravel path, alteration to gate position (approved under 15/00301/AS) (part retrospective)

Stodmarsh

15. Natural England have commented that impacts on nationally and internationally important wildlife sites in the Stour Valley, such as the Stodmarsh Special Protection Area (SPA), have arisen from excessive nutrients including those from waste water discharges. The appeal proposal is small scale but includes a mobile home and it is necessary to consider its impacts in relation to Natural England's 'precautionary principle' and aspirations for nutrient neutrality for new development.
16. The appellant has suggested a planning condition to address this concern, but principle of the development should be the subject of screening under the Habitat Regulations and, consequently, the undertaking of an Appropriate Assessment prior to any decision to grant planning permission. In the absence of sufficient information to conduct an Appropriate Assessment there is no assurance that the proposal alone or in-combination with other plans or projects would not result in harm to the designated protected sites at Stodmarsh. Adequate mitigation of any impacts may be possible but as submitted the proposal would be contrary to Paragraph 175 of the Framework that seek to protect designated habitat and biodiversity sites.

Other Matters

17. I have noted representations on the appeal proposal, mainly objections on grounds addressed but also some in support of the rehousing of animals. These representations do not lead me to a different conclusion.

Conclusion

18. The proposal provides insufficient information to provide adequate justification for the rural worker's accommodation on site and on the proposal's impact on water quality and the Stodmarsh designated habitat site. For these reasons the appeal should be dismissed.

Rory MacLeod

INSPECTOR