



Appeal Decision

Site Visit made on 9 November 2021

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/J4525/W/21/3277375

Land South of High Lane (North/West of A690), Stoneygate, Newbottle, Houghton-le-Spring DH4 4NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Adam Jenkins (Ajay Brickworks) against the decision of Sunderland City Council.
 - The application Ref 21/00059/FUL, dated 12 January 2021, was refused by notice dated 9 June 2021.
 - The development proposed is equestrian use of land, formation of horse track through partial re-levelling, fencing, and planting.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Adam Jenkins (Ajay Brickworks) against Sunderland City Council. This application is the subject of a separate Decision.

Procedural Matters

3. There is no dispute that the proposed development is partially retrospective. However, I have determined the appeal having regard to the proposed drawings, the evidence before me and on its own planning merits.
4. The proposal as described in the banner heading above, includes the equestrian use of the land and I have dealt with the appeal based on the development applied for. Although the evidence includes some discussion about the lawful use of the site, it is not for me as part of this section 78 appeal to establish the appeal site's lawful use. It is open for the appellant to apply to have this matter determined under Section 191 of the Town and Country Planning Act 1990.
5. On 20 July 2021, the Government published a revised National Planning Policy Framework (the Framework). Both main parties have had the opportunity to submit comments on the relevance of the Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the Framework.

Main Issues

6. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the relevant development plan policies and the Framework;

- the effect of the development on the character and appearance of the area; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Reasons

Whether the proposal is inappropriate development

7. Policy NE6 of the adopted Core Strategy and Development Plan (CSDP) states that inappropriate development in the Green Belt will not be approved except in very special circumstances; development will be permitted where consistent with the exception list in national policy. Proposals for increased opportunity for access to the open countryside and which provide opportunities for beneficial use such as outdoor sport and recreation, appropriate in the Green Belt, will be encouraged where it will not harm the objectives of Green Belt.
8. The Framework at paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of the exceptions set out. The exceptions in paragraph 149 relate solely to the construction of new buildings. Still, paragraph 150 of the Framework, states that certain other forms of development are also not inappropriate in the Green Belt, including at (e) material changes in the use of land (such as changes of use for outdoor sport and recreation), provided they preserve its openness and do not conflict with the purposes of including land within it. In this case, paragraph 150(e) would include elements of a proposal which are engineering operations, such as the horse track.
9. The appeal site comprises approximately 4.93 hectares of land situated to the south of High Lane and adjacent to the A690 dual carriage way. The site falls from north to south with the level change being between about 113 metres and 100 metres AOD.
10. The proposal is to use the appeal site for equestrian purposes and includes the formation of separate paddocks for the grazing of horses, car parking and turning area and an oval shaped horse track approximately 7 metres wide formed of a recycled stone base with lime fines for the surface. Much of this development had been undertaken at my site visit, although the appellant indicates that further work is needed to the track surface.
11. The Council and third parties refer to the horse track as a racetrack and third parties set out their concerns about the track use. Even so, the appellant has applied for a horse track and in the appellant's supporting statements the horse track is variously described including as a horse training track and as a track for horses to exercise upon. The appellant indicates support for conditions that would limit the appeal site's use and the numbers of horses and vehicles kept at the site.

12. Based on the evidence before me, I am satisfied that the development applied for would be for the purposes of outdoor sport and outdoor recreation and would fall within the definition of paragraph 150(e). The effect of the development on the openness and purposes of the Green Belt will therefore determine whether the proposal is inappropriate.

Openness and purposes

13. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
14. The parking area with its permeable surface similar to the access track, fencing and informal layout does not harm openness. Further, the parking area's use for a small number of vehicles in connection with the personal use of the site for equestrian purposes would not lead to a spatial or visual loss of openness.
15. The horse track consists of a large roughly oval circuit. The circuit has a significant width and scale, it has a shape that contrasts with the surrounding linear grazing plots and a surface that is relatively prominent against the permeable surrounding surfaces and grassed areas. Whilst I accept that the conifer tree planting placed to the circuit edge and the fencing designed to follow the line of the circuit do not require planning permission of themselves, their placement is dictated by the form and scale of the track and draws attention to it in the landscape.
16. The horse track has limited visibility from the dual carriage way due to the level of indigenous hedging to the roadside. However, the track's scale and form appear incongruous against the modest linear landscape and prominent in views from the higher land along the access road and from High Lane. Consequently, in combination the width, scale, form, and design of the horse track provide a significant footprint of permanent development that is prominent to the extent that it results in a visual and spatial loss of openness. Together, the spatial and visual effect of the development cause moderate harm to the openness of the Green Belt.
17. Furthermore, according to the contamination land report the horse track has been formed on an area of undeveloped field. Because of its width and construction, the track introduces development into an area where previously there was not any, encroaching into the countryside. Therefore, the development also fails to assist in safeguarding the countryside from encroachment, one of the five purposes of the Green Belt.
18. Overall, I conclude that the development reduces openness and would conflict with one of the purposes of Green Belt. Therefore, the proposal is inappropriate development in the Green Belt and conflicts with Policy NE6 of the CSDP and the Framework. Accordingly, the proposed development should not be approved except where very special circumstances exist.

Character and appearance

19. The appeal site is a triangular area of land which slopes down from High Lane with boundaries defined by hedging and trees on three sides and open to other grassland fields to the other. The landform, scattered trees and hedged boundaries of the appeal site are largely consistent with its surroundings. In this context the track takes up a relatively small part of the overall vista.

20. Nevertheless, due to the re-grading of the land and the tracks scale, form, and surface materials the proposal has some limited detriment to the overall landscape and the tracks enclosure with conifer trees has not demonstrated a high quality of landscape design. Consequently, the development does not protect, conserve, and enhance the landscape character of the area and there is some limited harm to the area's character and appearance.
21. Therefore, the proposal conflicts with Policy NE9 part 1 of the CSDP where it seeks to ensure that proposals demonstrate high quality of landscape design. Even so, the harm is not significantly adverse and does not conflict with Policy NE9 part 2. Policy BH1 of the CSDP which concerns the built and historic environment has limited relevance to the appeal.

Other Considerations

22. The appellant refers to Policy VC6 of the CSDP which supports leisure development that contributes to healthy lifestyles and Policy NE8 which supports outdoor sport and recreation in certain circumstances in the countryside. However, the development is for the appellant's use so that overall, the proposal would have a very small benefit to outdoor sport, recreation, and healthy lifestyles and limited meaningful contribution to a reduction in travel and transport to other facilities.
23. The appellant draws my attention to an appeal decision¹ where equestrian use including erection of stables and paddock area was allowed in Green Belt. In that case the question of whether the development was inappropriate was not a main issue before the Inspector. I have no evidence before me about why that development was considered acceptable in the Green Belt. No two sites are the same and I have considered this appeal proposal on its own merits.

Planning Balance and Conclusion

24. The proposal results in moderate harm to Green Belt openness and some limited harm in respect of countryside encroachment therefore the development is inappropriate development in the Green Belt. Having regard to the Framework, I give this Green Belt harm substantial weight. The proposal also results in some limited harm to the character and appearance of the area. These factors weigh heavily against the proposal.
25. In this context, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. I have given little weight to the other considerations cited in favour of the development. In my view, these would not clearly outweigh the substantial harm to the Green Belt caused by the development's inappropriateness. The very special circumstances necessary to justify the scheme do not therefore exist.
26. Overall, for the reasons given above, the proposal conflicts with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

Diane Cragg INSPECTOR

¹ Appeal ref: APP/P2935/W/20/3264436

