



Appeal Decision

Site visit made on 25 January and 25 February 2022

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th March 2022

Appeal Ref: APP/G2245/W/21/3280302

**Land south east of Oaklands, St Clere Hill Road, West Kingsdown
TN15 6AH**

- 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 Mr C Gray against the decision of Sevenoaks District Council.
 - The application Ref 21/00155/FUL, dated 19 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is change of use of land for private equestrian activities and the erection of stables building comprising 1 stable and 1 tack room.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for private equestrian activities and the erection of stables building comprising 1 stable and 1 tack room at Land south east of Oaklands, St Clere Hill Road, West Kingsdown TN15 6AH in accordance with the terms of the application, Ref 21/00155/FU, dated 19 January 2021, subject to the conditions set out in the Schedule of Conditions below.

Procedural matters

2. In response to the Council's second reason for refusal (RR2) reference was made in the appellant's appeal statement to a drawing showing visibility spays for the proposed vehicular access¹ having been included as Appendix 4. However, that drawing was not appended to the submitted appeal statement and I therefore requested its submission. The Council has had the opportunity to comment on that drawing and I have regard to the Council's representations about it.
3. The appeal was submitted on 4 August 2021, post-dating the Government's publication of an updated version of the National Planning Policy Framework (the Framework) in July 2021. Notwithstanding that the appellant's appeal statement cites some paragraph numbers found in the predecessor version of the Framework. The Framework's paragraph numbers I have quoted are from its extant version.
4. Following the high winds of February 2022, the appellant advised that the appeal site had been subject to some tree loss. To assess that tree loss, I undertook a second unaccompanied site visit on 25 February 2022, further to my initial unaccompanied site visit on 25 January.

¹ Drawing J003784-DD07

Main Issues

5. The development would involve a change of use of land to “private equestrian activities” and the construction of a timber clad building accommodating a stable and a tack room (the stable) and the installation of fencing. The development would therefore involve a change of use and built development within the Green Belt. Paragraph 147 of the Framework states that inappropriate development in the Green Belt is harmful by definition and should not be permitted. However, paragraphs 149 and 150 of the Framework state that certain types of built development and other forms of development, including changes of use, in some circumstances, may be regarded as being not inappropriate within the Green Belt.
6. The Council’s assessment of the Green Belt effects in its officer report has identified the stable and the installation of the fencing as being inappropriate development under the sub-headings of “*Erection of stable block*” and “*Erection of fencing*”. The officer report does not include an assessment of the change of use element of the development, but in that report’s conclusion section it is stated “*The proposal would incorporate an appropriate use within the Green Belt*”.
7. Given the way the Council approached the assessment of the change of use and built development elements of the development and then framed its first reason for refusal, I take the Council’s position to be that the change of use would be not inappropriate for the purposes of paragraph 150(e) of the Framework. I see no reason to take a contrary view, given that the equestrian use would be a recreational one, which of itself would preserve the openness of the Green Belt. I therefore consider the main issues are:
 - whether the stable and fencing would be inappropriate development in the Green Belt, including any effects for the openness of the Green Belt, having regard to the Framework and any relevant development plan policies; and
 - the effect of the development on highway safety.

Reasons

Green Belt

8. The site is an irregularly shaped field with an area of 0.2 hectares², situated on the north-eastern side of St Clere Hill Road around 100 metres from the junction with Pells Lane. As well as being in the Green Belt the site is also within the Kent Downs Area of Outstanding Natural Beauty (AONB). The Green Belt and the AONB within the vicinity of the site are characterised by open fields, some woodland and very sporadic built development.
9. The stable could accommodate a single horse and it would be around 3.6 metres in height³. It is proposed that the boundary of the site would be enclosed by 1.2 metre high post and stock proof mesh fencing. Part of the

² As quoted on the planning application form

³ Based on the dimension quoted in the Council’s officer report

development would involve the formation of a new vehicular access and a vehicle standing and turning area.

10. Paragraph 149 of the Framework identifies seven forms of built development that may, in certain circumstances, be regarded as being not inappropriate development in the Green Belt (the exceptions). The second of those exceptions concerns facilities for outdoor sports and outdoor recreation and advises such development would not be inappropriate provided the Green Belt's openness would be preserved and there would be no conflict with the purposes of including land in the Green Belt.
11. The stable would be a small building, which would be sited a few metres from the site's boundary with St Clere Hill Road. There is no screen planting along the boundary adjoining the public highway and the stable would therefore be clearly visible from St Clere Hill Road. That said I consider the very modest size of this building would mean that its presence would preserve the Green Belt's openness, with the area continuing to remain essentially free from built development. While the stable would be visible in the public domain, I consider that, of itself, does not mean that this building should be looked upon as being inappropriate development when regard is paid to paragraph 149(b)'s wording. I am also of the view that siting a stable in this location would not be in conflict with the fundamental aim of Green Belt policy to prevent urban sprawl (paragraph 137 of the Framework).
12. I am also of the view that as the stable's use would relate to an outdoor recreational use, it would not be in conflict with the Green Belt's purposes listed in paragraph 138 of the Framework, most particularly the third purpose, namely *"to assist in safeguarding the countryside from encroachment"*. The proposed fencing would in part replace existing fencing and I consider its installation would preserve the Green Belt's openness when regard is paid to its height and type.
13. I therefore consider that both the stable and fencing would not be inappropriate development in the Green Belt, having regard to the provisions of paragraph 149 of the Framework.
14. The Council contends that *"The proposed development by virtue of its isolated nature, would be inappropriate development in the Green Belt and harmful to its openness ..."* and would be contrary to Policy LT2 of the Sevenoaks Allocations and Development Management Plan of 2015 (the ADMP). Policy LT2 concerns equestrian development and states:

"Proposals for equestrian development in the Green Belt will be permitted where the scale of the development is appropriate to a Green Belt setting, and where the cumulative impact of other buildings, does not harm the openness of the Green Belt."
15. In considering the stable and fencing against the provisions of paragraph 149 of the Framework I have reached the view that they would not be inappropriate development. That is because I consider the openness of the Green Belt would be preserved. I am therefore of the view that the construction of the stables and the installation of the fencing would not be in conflict with the part of Policy LT2 that expressly addresses the consideration of equestrian development in the Green Belt.

16. In assessing the effects of the stable against the provisions of Policy LT2 the Council has also argued that there would be conflict because the stable would not be closely related to existing farm buildings or other groups of buildings. While the proposed stables would not be closely related to other buildings, resulting in some conflict with Policy LT2, I am not persuaded that would be a reason for withholding permission. That is because making an assessment of proximity to other buildings as a means of determining whether a new building would or would not be inappropriate development in the Green Belt is something that is not found in the wording of section 13 of the Framework, most particularly paragraph 149.
17. The Council has referred to an appeal for a larger stable block⁴ that was dismissed on the basis of it being in conflict with the purposes for including land in the Green Belt and the proposed stables not being closely related to other buildings. No further details relating to that dismissed appeal have been provided by the Council. I therefore do not know how comparable the proposal before me is to the one subject to the dismissed appeal. In any event I am required to consider the appeal before me having regard to its case specific circumstances and that is what I have done.
18. For the reasons given above I conclude that the stable and fencing would not be inappropriate development in the Green Belt and would accord with the Framework, most particularly paragraph 149, and the Green Belt specific part of Policy LT2 of the ADMP.
19. The first reason for refusal cites conflict with the Council's Development in the Green Belt Supplementary Planning Document of 2015 (the GBSPD). However, the Council has not explained how the development would be contrary to the GBSPD. Section 9 of the GBSPD addresses leisure, tourism and equestrian development and with respect to equestrian development I have seen nothing in that supplementary guidance to persuade me that the stable and fencing should be looked upon as being inappropriate development in the Green Belt.

Highway safety

20. St Clere Hill Road is a single track rural road, with some passing places. This road is essentially straight within the immediate vicinity of the appeal site. The proposed access would be formed within the vicinity of the site's western extremity.
21. RR2 contends that the development would be "*... likely to have a harmful impact on highway safety ...*" and its inclusion was informed by the highway authority's consultation response. The highway authority expressing the view that insufficient information was submitted with the application to assess the development's highway impact and it therefore recommended that planning permission should be refused. That said the highway authority further advised that the access should be a minimum of 4 metres wide and have visibility splays of 2.4 metres by 25 metres in both directions to the nearside road edge.
22. During both of my site visits I observed very few vehicles travelling in either direction along St Clere Hill Road. It would therefore appear that this road is

⁴ APP/G2245/W/20/3246487

lightly trafficked. The site's size would limit the number of horses that could be kept and I am of the view that would have implications for the frequency with which the access would be used.

23. I consider the daily use of the access would be likely to be of a low intensity. The highway authority has estimated vehicles using St Clere Hill Road would be travelling at a maximum speed of 20 miles per hour and I consider that to be a reasonable observation, given the road's width. When regard is paid to the lightly trafficked nature of St Clere Hill Road and the speed of vehicles using it, I am not persuaded that the frequency of the access' use would be prejudicial to highway safety, whether or not visibility splays of 2.4 metres by 25 metres were provided.
24. The Council is concerned that the visibility splays shown on the drawing submitted with the appeal may not be capable of being accommodated within the extent of the land under the appellant's control and that their provision could necessitate the removal of trees protected by the woodland tree preservation order it made on 15 July 2020. To maintain the partly treed character of the site I consider that there should be no tree removal associated with the formation of the proposed access. In that regard for the reasons given above, I consider that the access could be used in the absence of visibility splays without there being detriment to highway safety.
25. I therefore conclude that the development would not adversely effect highway safety. I therefore consider there would be no conflict with Policy EN1 of the ADMP and paragraph 111 of the Framework. That is because the development would provide a satisfactory means of access for vehicles and there would be no unacceptable impact on highway safety.

Other Matters

26. The site is part of a larger piece of land which is subject to two Article 4 Directions issued by the Council, under the provisions of The Town and Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO). One of the Article 4 Directions has removed the permitted development (PD) rights conferred by the GDPO for development involving: the construction, maintenance, improvement and alteration of gates, fences, walls or other means of enclosure; and the formation of means of access to the public highway. The other Article 4 Direction has removed the PD rights to site caravans under certain circumstances.
27. The development subject to the Article 4 Directions no longer benefits from deemed planning permission under the GDPO, making it necessary to obtain express planning permission for it⁵. The existence of the Article 4 Directions does not preclude the submission of planning applications and the subsequent granting of planning permission, with proposals subject to any such applications to be considered on their individual merits, having regard to, amongst other things, the policies of the ADMP and the Framework.
28. Concern has been raised as to whether the site would be of a sufficient area to keep a horse or horses on it. However, matters relating to equine welfare are not for consideration as part of the determination of this appeal.

⁵ Through the submission of planning applications

Conditions

29. I have considered the need for the imposition of conditions, having regard to the Council's seven suggested conditions and the provisions of the national policy and guidance for the use of conditions.
30. Apart from the standard time condition, it is necessary that the development be built to accord with the submitted plans for certainty. To safeguard the appearance of the area it is necessary that the external materials used are those shown on plan J003784-DD-06 (Proposed Floor Plans and Elevations) and as listed in section 7 of the planning application form and I have imposed a condition to that effect.
31. To ensure that manure is stored and disposed of in a manner that is not detrimental to the appearance of the area and the living conditions of local residents I have imposed a condition requiring a scheme for such storage and disposal to be submitted for the Council's approval. The Council has suggested that this scheme should be submitted for its approval prior to the commencement of the development. However, I consider that would be unnecessary and the condition I have imposed would preclude the commencement of the permitted use until the scheme of details had been submitted to and approved by the Council.
32. To avoid the trees on site being stripped of their bark I consider it necessary details of tree protection measures be submitted for the Council's approval. The Council has suggested that these details should be submitted for its approval prior to the commencement of the development. However, I consider that would be unnecessary and the condition I have imposed would require the details to have been submitted to and approved by the Council prior to the commencement of the permitted use of the land.
33. A condition requiring the undertaking of an archaeological watching brief has been suggested. The stable would be modest in scale and I consider any below ground works associated with its construction would be unlikely to significantly affect any buried archaeology. I have therefore not imposed the suggested archaeological watching brief condition.
34. A condition requiring the undertaking of ecological enhancements has also been suggested. Having regard to the size of the site and the nature of the proposed development, I consider a requirement to undertake ecological enhancements to be warranted and I have therefore not imposed the suggested condition.

Conclusion

35. For the reasons given above the appeal is allowed with planning conditions.

Grahame Gould
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J003784-DD-01 (Site Location Plan); J003784-DD-04 (Proposed Site Block Plan); J003784-DD-05 (Proposed Site Plan); and J003784-DD-06 (Proposed Floor Plans and Elevations).
- 3) The materials to be used in the construction of the development shall be those indicated on approved plan J003784-DD-06 and stated in section 7 of the Planning Application Form.
- 4) Prior to the commencement of the use hereby permitted a scheme for the storage and disposal of manure must be submitted to and approved in writing by the Local Planning Authority. Thereafter the use hereby permitted shall be undertaken in strict accordance with the approved scheme for the storage and disposal of manure.
- 5) Prior to the commencement of the use hereby permitted details of measures to protect the lower trunks of the trees on the site must be submitted to and approved in writing by the Local Planning Authority. The approved tree protection measures shall be installed in accordance with the approved details prior to the commencement of the use hereby permitted and thereafter be retained for the duration of the use.