



Appeal Decision

Site visit made on 12 October 2022

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 7 December 2022

Appeal Ref: APP/H2265/W/22/3302892

Land Opposite The Paddocks, Birling Rd, Leybourne, Kent, ME19 5HZ, 568339, 158839

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Thomas Fisher against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/01099/FL, dated 15 April 2021, was refused by notice dated 15 June 2022.
 - The development proposed is Change of use of the land to keeping of horses and erection of 2no stables with associated development including fencing, erection of gates and hardstanding.
-

Decision

1. The appeal is dismissed.

Reasons

2. The appeal site is in the open countryside and within the Metropolitan Green Belt. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - Whether there would be harm to the character and appearance of the area;
 - Whether there would be harm to biodiversity; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.
3. The development plan for the Borough includes the Core Strategy (CS), adopted in 2007, and the Managing Development and the Environment DPD 2010 (MDE). CS Policy CP3 establishes the extent of the Green Belt and applies national Green Belt policy, currently set out in the National Planning Policy Framework (NPPF). The construction of new buildings is to be regarded as inappropriate development in the Green Belt save for the exceptions set out in NPPF 149. The exception relied upon is NPPF paragraph 149(b), that is "the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it." Those considerations are re-iterated in NPPF paragraph 150, concerning

whether the material change of use of land for purposes such as outdoor sport or recreation is inappropriate.

4. Equestrian facilities commonly fall under these provisions, but the Council disputes the appellant's assertion that the equestrian use would be for recreational purposes on the basis that the keeping of horses on the land without facilitation of horse riding would not strictly fall within the meaning of 'outdoor sports and recreation'. However, the keeping of horses for recreational purposes does not necessarily require the provision of specific on-site riding facilities, so their absence does not indicate a non-recreational purpose.
5. Nonetheless, the facilities proposed, 2 stable buildings and extensive hardstanding, must preserve the openness of the Green Belt and not conflict with the purposes of including land in the Green Belt if the development is not to be inappropriate. The stable buildings would provide stabling for 6 horses, which it is claimed the holding is capable of supporting, but the scale of the buildings and associated hardstanding proposed in this case would represent a material loss of openness, which would be evident from Birling Road and from the bridleway passing along the eastern boundary. The presence of the substantial buildings and the considerable extent of hardstanding would also have an urbanising effect within this semi-rural part of the countryside and would conflict with one of the purposes of the Green Belt, that of safeguarding the countryside from encroachment. For these reasons I consider that the proposal would be inappropriate development in the Green Belt.
6. While there is considerable development along Birling Lane, including a substantial equestrian facility almost opposite, the undeveloped character of the site makes a significant contribution to maintaining an attractive semi-rural local character, which would be undermined to an extent by the evident urbanising effect of the buildings and hardstanding. There is some scope for landscaping to soften the impact and help integrate the development with its surroundings, but the proposed development would not accord with MDE Policy DC4, which expects equestrian development to be of an appropriate scale and design. It would thus fail to reflect the positive characteristics and features of the site and locality, which is also contrary to the aims of CP Policy CP24 and MDE Policy SQ1.
7. The undeveloped nature of the land and the apparent absence of active use for some years also raises the possibility that the site may contain habitats of biodiversity interest, or may be used by protected species. MDE Policy NE3 provides that development that would adversely affect biodiversity or the value of wildlife habitats will only be permitted where appropriate measures would result in overall enhancement. However, the application has not been accompanied by sufficient information, such as up-to-date surveys, to ascertain whether or not the site contains important habitats or supports protected species. Hence it is not possible to ensure that biodiversity interests can be protected and enhanced, so on a precautionary basis I find that the development would conflict with Policy NE3.
8. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Any harm to the Green Belt must

be given substantial weight, and I also accord substantial weight to the conflict with development plan policies aimed at maintaining local character and the environment.

9. In terms of other considerations put forward in support of the proposal, the issue of the Human Rights of the appellant has been raised, but this is not a development whose refusal would disproportionately interfere with any such rights. Nor, having regard to the Public Sector Equality Duty, do I consider that withholding permission would undermine its aims. Overall, either individually or in combination there are not, in my view, considerations that clearly outweigh the totality of the harm I have identified, so the very special circumstances necessary to justify the development do not exist. As such there is conflict with CS Policy CP3, and, in view of the other policy conflicts identified, with the development plan read as a whole.
10. In conclusion, the proposal conflicts with the development plan, and there are not material considerations to indicate that the appeal should be determined other than in accordance with that plan. Accordingly, the appeal must be dismissed.

Paul Dignan

INSPECTOR