



Appeal Decision

Hearing held on 17 November 2022

Site visit made on 17 November 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/G2245/W/21/3287673

Robertsons Nursery, Goldsel Road, Swanley, BR8 8BF

- 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 and Mrs Coates against the decision of Sevenoaks District Council.
 - The application Ref 21/01756/FUL, dated 28 May 2021, was refused by notice dated 10 September 2021.
 - The development proposed is described as 'Construction of a stable block and an associated path.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing, the appellants explained that the proposed development would be for the purposes of their business. The Council maintained that the description of the proposal within the planning application form made no reference to this and that it was assessed on the basis of it being equestrian development. Nonetheless, it is evident from the appellants' pre-application planning statement and the planning statement that accompanied the application, that the proposed stable would be used for foaling, weaning, isolating and treating the appellants' horses as a part of their horse breeding and trading business.
3. On the information supplied, I therefore consider it implicit that the application sought approval for a stable block and path for commercial equine use within the red line application site as shown in the submitted drawings. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the National Planning Policy Framework (the Framework).
 - (ii) The effect of the proposal on the openness of the Green Belt;

- (iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The appeal relates to an area of undeveloped grassland that is located adjacent to the appellants' mobile home and within the Green Belt. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. Exception b) permits the provision of appropriate facilities (in connection with the existing use of the 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.
6. Given my findings in respect of the intended nature of the proposed development it cannot be considered to be an appropriate facility in connection with the change of use for outdoor sport or outdoor recreation. As a result, Policy LT2 of the Sevenoaks Allocations and Development Management Plan 2015, is not relevant in the determination of this appeal, as it specifically relates to equestrian development, where horse and other equestrian related activities are described as popular forms of recreation.
7. Nonetheless, it was common ground between the main parties at the Hearing that the proposal would not fall within any of the list of exceptions set out in paragraph 149, and I have no substantive reason to disagree. It would therefore be regarded as inappropriate development that is, by definition, harmful to the Green Belt and in conflict with the Framework.

Openness

8. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the absence of development and has both spatial and visual dimensions.
9. Due to the topography of the area, the appeal site, the adjacent mobile home and an existing nearby stable building sit at a considerably lower level than the Goldsel Road highway from which they are accessed. However, despite the presence of this small group of buildings and other urban influences, the area to the southern eastern side of Goldsel Road, of which the appeal site forms a part, predominantly comprises open fields and agricultural land.
10. As a former horticultural nursery, I appreciate that there would have previously been some buildings on the site, and I have had regard to the submitted photographs in this respect. Nonetheless, these buildings have been demolished, and no longer form a part of the immediate local context.
11. I am also mindful that the appellants have planted new laurels on their land and that the proposed materials would be in keeping with the rural character of the area. However, the footprint and volume of the proposed development would give rise to a spatial loss of openness on the site as it results in development where there was previously none.

12. Although most views of the proposal from the public domain would be screened by the embankment, large mature trees, and nearby buildings, it would also still be possible to see its form, bulk and massing from some points along the public footpaths (SD186 & SD187) to the south. Nevertheless, its visual effect on the wider openness of the Green Belt would be limited. As a result, I find that the proposed development would reduce the openness of the Green Belt in both visual and spatial terms, albeit to a limited extent.

Other Considerations

13. The appellants consider there to be a pressing need to provide the proposed stable facilities in close proximity to their home due to the operational requirements of the business.
14. At the Hearing I was informed that the horse breeding and trading business predominantly operates from 2 separate locations in fields that are around 3 miles away from their home. I was also told that they typically have a stock of around 30-35 horses, including 3 stallions, and that the enterprise is operated and managed by the appellants, whose family have been horse breeders and traders for generations. Photographs of magazine articles, calendars and sales catalogues, in which the appellants' horses have featured have also been provided.
15. A central tenet of the appellants' case is that there is a lack of suitable indoor facilities for the foaling, weaning, isolation and treatment of their horses and that this is creating challenges for the operation of their business. Letters provided from a vets, farriers and breeding specialist support the associated animal safety and welfare benefits that would be provided by the proposal. At the Hearing I was also made aware of the danger and risk of injury to human health posed by current arrangements.
16. It has also been put to me that work often needs to be carried out during anti-social hours, given the need for general animal care. I was informed at the Hearing that foaling takes place at various times throughout the year, and that supervision is required for the animals' welfare and in emergencies. Improvements to the level of security was also put forward as a reason for a 24 hour presence on the site.
17. Whilst I have little doubt that a presence on site late at night is required on occasions, no detailed information about the number of horses, births, injuries, deaths or the number and duration of evening and night time visits are before me. The appellants' commitment to their horses is not questioned and whilst I appreciate that they have submitted a certificate of incorporation of a private limited company, little detailed information about the business, including any profit and loss accounts, or financial forecasts, have been provided. Although the appellants' statement of case refers to an extensive list of horses that they have sold, this is also not before me. Furthermore, no records of any incidents have been provided to substantiate the security risk, or of the costs to the business.
18. In addition, I have not been provided with the exact locations of the land where the horses are currently kept. I recognise that the distance of these sites from the appellants' home may be inconvenient, particularly when Mr Coates is away on business and Mrs Coates is at home caring for their children, and that the repeated journeys are time consuming. A stable on site would make these late

vigils much easier for them and would reduce car journeys. However, while it may be inconvenient, I am unable to conclude, on the basis of the evidence before me, that the present level of activity is such that the size and scale of the proposed stable is the minimum quantum of development required to meet the business needs. In addition to this, given the lack of detail in respect of the 2 sites that are currently used, I am unable to discount them as possible alternative rural locations for the proposed stable.

19. The information available to me, is therefore not sufficient to convince me that there is an essential need for the proposal to be located on the appeal site. Accordingly, the operational requirements of the appellants' business attract modest weight in the overall Green Belt balance.
20. I am mindful that the Framework explicitly seeks to support a prosperous rural economy, and the promotion of other land based rural business and growth in existing businesses. However, given the lack of detail in respect of the appellants' business, any economic and social benefits in these respects, and in relation to sustainable travel and transport, would also only be somewhat limited.
21. I have been made aware that the appeal site does not affect any heritage assets and is not situated within an Area of Outstanding Natural Beauty. In addition, the Council found the effects of the proposal on highways, access, parking, flood risk, drainage and the living conditions of the residents of neighbouring properties to be acceptable. Nevertheless, these matters did not appear to be contentious in the appeal and the absence of harm in these respects would be neutral in the overall Green Belt balance.
22. My attention has also been drawn to 3 appeal decisions in the Green Belt (Ref: APP/C3430/A/13/2207380, APP/P3420/W/15/3140538 & APP/P2935/W/20/3247129). Considerations such as the growth and expansion of an equestrian enterprise, the need to provide an up-to-date building that is fit for purpose, and the essential requirement for a rural worker were found to be important factors that would contribute to outweighing the harm to the Green Belt in these respective cases. However, accounts and financial forecasts were submitted in 2 of these appeals to justify the business and essential needs of the proposals. The other appeal was for the replacement of existing kennels for an established rural business on the site. Accordingly, and on the basis of the evidence before me, I am unable to conclude that their circumstances are directly comparable with those which apply in this appeal. As such, they are not relevant to my assessment of the current proposal.
23. At the Hearing reference was made to the possibility of a planning condition that is personal to the appellants. Nonetheless, personal circumstances seldom outweigh more general planning considerations, particularly where development would be permanent. For the reason that they could be repeated so often in Green Belt situations across the country, such personal circumstances are not, on their own, capable of amounting to very special circumstances in the terms of national planning policy. They therefore carry little weight.
24. The appellants frustration and criticism in regard to the planning committee meeting are also noted. However, this has not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Green Belt Balance

25. I have found the proposal to be inappropriate development in the terms set out by the Framework, and to result in limited harm to the openness to the Green Belt. The Framework requires me to give these collective harms substantial weight. Even when taken together, the benefits of the scheme, referred to above, carry only modest weight. These other considerations do not therefore clearly outweigh the substantial harm that I have identified due to inappropriateness and loss of openness. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the development conflicts with Policy LO 8 of the Sevenoaks Core Strategy 2011, guidance within the Development in the Green Belt Supplementary Planning Document 2015, and with Section 13 of the Framework which all seek to protect Green Belt land.

Conclusion

26. The appeal scheme consequently conflicts with the development plan and there are no material considerations, including the approach of the Framework, which would indicate a decision otherwise in accordance with it. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Albert Coates	Appellant
Amy Coates	Appellant
Ryan Astill	Astill Planning Consultants
Alex Prowse	Astill Planning Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Louise Cane	Sevenoaks District Council.
Nicola Furlonger	Sevenoaks District Council.