
Appeal Decision

Site visit made on 16 July 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/M3645/W/19/3224431

Steeple Farm, Church Road, Burstow, Surrey RH6 9RG

- 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 E Carey against the decision of Tandridge District Council.
 - The application Ref TA/2018/2178, dated 30 October 2018, was refused by notice dated 7 February 2019.
 - The development proposed is extension of stables to provide area for storage of a trotting cart.
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Decision

1. The appeal is allowed, and planning permission is granted for extension of the stables to provide area for storage of a trotting cart at Steeple Farm, Church Road, Burstow, Surrey RH6 9RG in accordance with the terms of the application, Ref TA/2018/2178, dated 30 October 2018 subject to the following 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: 1, 2, 3, 4 and 05.
 - 3) The stables hereby permitted shall only be used as private stabling and no for commercial riding or livery use.
 - 4) The stables hereby permitted shall be limited to the stabling of 4 horse only.

Procedural Matters

The existing structure

2. The appellant has applied for an extension to a building whereas the Council has treated the proposal as a new building. In 2001 planning permission was granted for "*Erection of 4 stables plus feedstore and retention of track and hardstanding*".¹ The approved plans show an L-shaped building. As the partially completed structure on site has a larger U-shaped footprint and openings and materials differ from the approved plans, the Council contend that the current proposal should be treated as a new building.
3. At my site visit I noted that a U-shaped concrete base has been laid and walls with openings for doors erected up to about 1m in height. Whilst the shape

¹ TA/2001/P/825

differs from the approved plans, the siting of the building is in the correct place and the majority of openings are as shown on the approved plans. It would be a minor change to correct the openings to accord with the plans but in any case, the character and appearance of the building would be little changed if the openings remained as constructed. A brick outer wall can be seen to the structure that accords with the materials specified for the lower part of the wall. Building works are at too early a stage to conclude that the materials used depart significantly from those approved.

4. It is evident from the appellant's appendices showing a dialogue between the appellant and a Council Enforcement Officer that the concrete base was laid in the summer of 2006 some 13 years ago. The partially completed structure has been in place for a considerable time and may be immune from enforcement action. The part of the building that is L-shaped substantially accords with the approved plans. Notwithstanding the lawfulness of the structure in relation to its U-shape, I cannot readily set aside its long-standing existence and correlation with the approved plans. Although the existing structure is far from complete as stables and a feed store, the appeal proposal shows both the completion of the permitted structure and an extension to its southern side to complete the U-shape. I shall determine the appeal on the basis as applied for as an extension to the existing building rather than as a new building.

Use of the site

5. The Council contend that the use of the land has changed to dog walking after a recent permission and there being no evidence of equestrian use at recent visits to the site by Council officers. An appeal was allowed in October 2018 for *"change of use of land currently used for equestrian grazing to allow the occasional exercising of privately owned dogs in the appellant's care".²* Condition 2 to the permission limits the use to 6 dogs.
6. The appeal site is extensive, covering some 6.59 hectares spread over two fields, one to the north and the other to the south, linked by a narrow neck. At my site visit I noted the area set aside for dog exercising in the northern part of the northern field and the presence of two horses grazing in the southern field. The 2001 permission was for stabling in association with adjacent grazing land. The northern field is largely divided into paddocks for horses and substantial grazing land remains. I have determined this appeal on the basis of a mixed use of the site comprising the keeping of horses and the exercising of dogs.

Main Issues

7. The main issues are
 - (a) whether the proposal would constitute inappropriate development in the Green Belt, including its effect on the openness of the Green Belt,
 - (b) the effect of the proposal on the character and appearance of the site and rural landscape,
 - (c) whether there would be adequate provision of land to provide for the proper care of horses, and

² APP/M3645/W/18/3197982

(d) 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 necessary to justify the development.

Reasons

Whether inappropriate development

8. The site has a vehicular access in its north-eastern corner from Church Road. From this point a track leads to a hardstanding area close to the eastern boundary which includes the partially completed building. This area forms part of the northern field mostly sub-divided by fencing into paddocks. The southern field is more open and bisected by a line of trees. There are also lines of trees to most boundaries to both fields. The site and surrounding area are within the Green Belt.
9. Paragraph 145 of National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it complies with a stated exception. Exception (c) relates to *"the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"*. Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (TLP) are consistent with the Framework in relation to Green Belt matters. Exception (E) to Policy DP13 enables the extension or alteration of buildings to not be inappropriate development where the proposal does not result in disproportionate additions over and above the size of the original building.
10. The proposal would involve completion of a U-shaped building including the wing excluded from the 2001 permission. The appellant contends he can lawfully complete the construction of the stables in the 2001 permission whereas the Council contends that the change of use to dog walking has erased that permission. As specified above, my findings are that the use of the site for the keeping of horses remains lawful. Moreover, the existence of the 2001 permission and existing structure on site are material considerations.
11. The planning application form specifies that there would be an increase in floor area from 97.8 square metres (for the L-shaped building) to 122.8 square metres (for the U-shaped building). The increase of 25 square metres equates to about a quarter of the approved floor area. The increase in massing would be to a similar proportion. The resultant building would have a symmetrical appearance completing the enclosure of the courtyard in the consented scheme. In relation to both the consented building and the footprint of the structure currently on site, I consider that the proposal would not amount to a disproportionate addition. The proposal would therefore satisfy exception (c) to Paragraph 145 of the Framework. It would not be inappropriate development.
12. Although I have determined the proposal as an *"extension or alteration"*, even if I had regarded the structure as a new building, there are reasons for not regarding the development as inappropriate development. Exception (b) to Paragraph 145 and exception (B) to Policy DP13 both recognise the provision of appropriate facilities for outdoor sport and recreation. The Council granted permission for a stabling building in 2001 with a floor area of 97.8 square metres in accordance with an appropriate recreational use of the site. Whilst

the Council does not appear to have favoured the U-shaped building at that time, given the size of the overall site and the absence of other buildings it is my judgement that the proposal as a new building would amount to the provision of appropriate facilities for outdoor recreation. It satisfies the other policy requirements to this exception in that the building would preserve the openness of the Green Belt, being of modest size and located in a secluded part of the site, and would not conflict with the purposes of including land within the Green Belt set out at Paragraph 134 of the Framework.

13. The Council has examined the proposal in relation to exception (g) to Paragraph 145 of the Framework relating to previously developed land. It concludes that as the change of use has erased the right to build the stables in the 2001 permission and the existing development is not a "permanent lawful structure" that the site is not previously developed land. For the reasons set out above, I consider that this is not the correct test for the proposal.

Character and appearance

14. The proposal would result in a building with a brick plinth, shiplap boarding and clay tiles to a pitched roof. The external materials and design approach would be reflective of the 2001 permission, although the building would be larger than approved at that time. The building would have a satisfactory appearance appropriate to its intended use as stables and related storage.
15. It would be sited close to the eastern boundary along which there is a line of trees that would screen views of the building from this direction. There are also trees to the other boundaries to the northern field of the application site; as such the proposal would only be readily visible from within the site itself. The proposal would be located towards the rear of the existing hardstanding area, a part of the site that has been subject to development already. Its siting would appear relatively discreet in this location and given the size of the northern field and appeal site as a whole, the proposal would not appear unduly large.
16. At the time of my visit there were several vehicles on the hardstanding including a large trailer that is currently used to store the trotting cart intended for the proposed extension. The proposal would enhance provision of covered storage at the site and reduce reliance on trailers for operational needs.
17. The proposal would be in accordance with Policy CSP18 of the Tandridge District Core Strategy (2008) (CS) and with Policy DP7 of the TLP which require development to be of high quality design, effectively integrating with its surroundings in relation to its form, size and design and to have regard to important groups of trees to be retained. Similarly, there would be no conflict with Policy CSP 21 of the CS or with Policy DP17 of the TLP that require protection of the character and distinctiveness of the District's landscapes and for new development to not adversely impact landscape character.

Land for horses

18. Policy DP17 of the TLP relates to equestrian facilities and requires development to be of an appropriate size and scale, relative to its intended use and the fields concerned. It also requires applicants to demonstrate adequate provision of land to allow for the proper care of horses, including stabling, grazing and exercise, in accordance with the Equine Industry Welfare Guidelines and the British Horse Society standards.

19. The appellant has submitted a Code of practice for the welfare of Horses, Ponies, Donkeys and their hybrids prepared by the Department for Environment, Food & Rural Affairs. Paragraph 1.2 states "*as a general rule each horse requires approximately 0.5-1.0 hectares of grazing of a suitable quality if no supplementary feeding is being provided*". As the appeal site is approximately 6.59 hectares, and the structure is intended for the stabling of only 4 horses, there would be ample provision of land for the proper care of horses. The building also includes a hay/feed store. The Council comment that storage areas could also be used as stables resulting in provision for 6 horses. That is not what the proposed plans show. The appellant is also happy for a planning condition to be included limiting the stables to just 4 horses, as was proposed in the 2001 permission, so that the Council has control over any later increase in the number of horses.
20. The Council consider that the use of land at the site for commercial dog walking to be at odds with the intended use of the building for stabling horses and that this would undermine the proper care of horses in terms of grazing and exercise land. As the permission for dog exercising limits the number of dogs to 6 and the land set aside for this activity is in the northern corner of the site, there would be reasonable separation to horse grazing, particularly in the larger southern field. The Council has referred to unauthorised use of the site by more than 6 dogs and to a license application to increase the number of dogs. My decision is based on the lawful use of the land by 6 dogs. However, as both activities would be under the appellant's control, there would be scope for the appellant to manage any limited conflict that may arise.
21. My findings are that there would be adequate provision of land to provide for the proper care of horses at the site. The proposal would not conflict with Policy DP17.

Other matters

22. As the proposal is not inappropriate development, there is no need to examine if very special circumstances exist. The proposal would enable the effective use of land through a mixed use scheme on rural land that would be in accordance with Paragraph 118 of the Framework.

Conclusion

23. For the reasons given and having regard to all other matters raised the appeal is allowed subject to conditions.
24. In addition to the statutory condition limiting the time for commencement of work, a condition is necessary to list the plans in the interest of certainty and to enable submission of minor material amendments should this be expedient. The Council's suggested condition to limit the use to private stabling is necessary to mitigate any impact from a more intensive use. I concur with the appellant that a condition to limit the number of horses stabled to 4 would also help in this respect.

Rory MacLeod

INSPECTOR