



Appeal Decision

Site visit made on 23 January 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/W0340/W/22/3291908

Newbury Racecourse, Racecourse Road, Newbury RG14 7NZ

- 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 Newbury Racecourse against the decision of West Berkshire Council.
 - The application Ref 21/01079/COMIND, dated 13 April 2021, was refused by notice dated 2 September 2021.
 - The development proposed is Great Newbury Christmas Carnival (with attractions including market stalls, big-top, fairground rides, Christmas tree maze, ice-rink and Santa's grotto). Associated cut and fill works are also proposed to level the centre of the Racecourse.
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Decision

1. The appeal is allowed and planning permission is granted for Great Newbury Christmas Carnival (with attractions including market stalls, big-top, fairground rides, Christmas tree maze, ice-rink and Santa's grotto). Associated cut and fill works are also proposed to level the centre of the Racecourse at Newbury Racecourse, Racecourse Road, Newbury, RG14 7NZ, in accordance with the terms of the application, Ref 21/01079/COMIND, dated 13 April 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. During my site visit, I saw that the cut and fill levelling works had already occurred in connection with the Christmas Carnival held in December 2022 by way of separate consent. The appeal has been assessed on the basis that it is partly retrospective in this regard.
3. Following the submission of the appeal, the Council also determined an application for a Certificate of Lawfulness of a Proposed Use¹ which confirms that, irrespective of any temporary permissions that may be given, a Christmas carnival may be held for a temporary period of not more than 28 days in any one calendar year. Within that period, a Christmas market would also operate for not more than 14 days. This is a fall-back position which forms a material consideration in the appeal.

Main Issues

4. The main issues are: (a) the effects of the living conditions of nearby residents in terms of noise generated by the development, and (b), the effects of the proposal on highway safety.

¹ Under Section 192 of the Town and Country Planning Act 1990, decision Ref 21/02861/CERTP, dated 26 April 2022

Reasons

Context

5. The site forms a part of Newbury Racecourse, which is located to the south-east of Newbury Town Centre and is a fully operational horse racing venue which includes two large grandstands, the Lodge Hotel, a nursery, administrative buildings and stables. There are a number of high rise apartment blocks on the site to the north and west which front onto the open racecourse. The central area of the Racecourse is intended to be used for the Christmas Carnival, with some specific car parks designated for use throughout the event.
6. The configuration of the event is based on an indicative layout, but would include various rides, market stalls, a big top tent and various other seasonal attractions. It would be intended that the Carnival would run for around 38 days, with initial build and dismantling phases either side of this period.

Noise Effects

7. There are residential properties built around the edges of the Racecourse to the north, and others within around 230 metres to the south, separated from the Racecourse by dense woodland. Those neighbours that would be most affected by noise from amplified music, generators or crowds would be those closest which are within around 135 metres to the north.
8. A Noise Assessment and Noise Management Plan (NMP) was submitted with the appeal application and further noise information, including a Generator Noise Impact Assessment, was submitted during the course of its consideration. The information sets out that the event would operate with a single source of background music, rather than all rides having their own music, although the big top tent would also generate a different source of noise depending on the activity taking place therein at any given time.
9. The views offered by the Environmental Health Officers were based on an assumption that windows in the properties would be more likely to be closed during the winter period over which the Carnival would be held. The Assessment and NMP indicated that a 22dBA sound reduction would be achieved in the nearest noise-sensitive premises based on their modern double glazing. From a combination of the predicted noise levels, the measures capable of being implemented by way of conditions, including restrictions on opening hours, the application was initially recommended for conditional approval.
10. Despite the initial recommendation, the decision of the Council was that the living conditions of the neighbouring occupiers would be harmed through exposure to noise over a prolonged period. Concerns were raised that there was an absence of some information, such as that from potential crowd noise, and that some assessments undertaken were not sufficiently robust.
11. In response to this, an updated Noise Assessment and Management Plan was submitted with the appeal documentation, including two further suggested conditions to control the initial build and strike phases and noise levels from amplified music. It also concludes that the total noise from a maximum

capacity crowd at the nearest receptor would match the BS 8223² internal guideline with windows open for resting and sleeping and would be 5 decibels less than the level considered reasonable in the BS 8223 guidelines. Obviously, it can be inferred from this that if the windows of the nearest receptors were closed, then the internal noise levels from crowd noise will be at least 10 decibels below the BS 8223 guidelines.

12. In my view, the combination of the Noise Assessment and NMP and the updated version of the same are sufficiently robust to understand the anticipated noise effects and how such could be minimised and/or controlled by way of planning conditions. In the context of the fall-back position, which would allow for a similar event to run over 28 days without controls, the additional 10 days over which noise-sensitive receptors would be exposed to noise with the recommended mitigation measures in place could not be considered to result in harmful effects.
13. Therefore, subject to conditions, I consider that the living conditions of neighbouring occupiers would be protected in accordance with the expectations of Policy CS14 of the West Berkshire Core Strategy (adopted 2012) (Core Strategy) and Policies OVS5 and OVS6 of the West Berkshire District Local Plan (saved policies 2007) (Local Plan). These Policies, taken together, permit development proposals where they would not give rise to unacceptable pollution of the environment or loss of amenity and seeks to ensure that development respects and enhances the character and appearance of the area.
14. For similar reasons, the proposal would also adhere to the expectations of the National Planning Policy Framework and the West Berkshire Quality Design Supplementary Planning Document (2006) which collectively seek to ensure that developments are well-designed and appropriate for their location taking into account effects of pollution on health, living conditions and the natural environment.

Highway Safety

15. The appeal application was submitted with a Transport Assessment (TA) that details how the Carnival would operate in terms of vehicular movements and parking arrangements. The Carnival was anticipated to attract around 6,500 people per day, which is comfortably within the car park capacity levels, and less still than the number of people that attend the Racecourse on big race days or for other infrequent big events, i.e. concerts. The management of large volumes of transport demand and traffic associated with large scale events is therefore something with which the Racecourse has experience.
16. There are 5 car parks serving the Racecourse. As large scale events can result in congestion along Greenham Road onto the A339 and along Boundary Road, concerns were expressed in relation to a lack of detail on how such effects would be avoided. The operation of Car Park 1 is particularly relevant in this context, as on race days it is limited via a management plan to staff parking, accessible parking and pre-purchased VIP parking only. Should the Christmas Carnival operate differently, there is a risk that this approach would be undermined.

² BS8233:2014 Guidance on sound insulation and noise reduction for buildings

17. The car parks to be used in association with the Carnival would be Car Parks 4 and 5, and 6 where necessary. The use of Car Park 1 would be limited throughout the Carnival as it is on race days. Conditions can be used to secure the final details of the provision and management of car parking arrangements in such a way.
18. Therefore, subject to conditions, the proposal would not have a harmful effect on highway safety, and thus complies with, in particular, Policy CS13 of the Core Strategy and Policy TRANS1 of the Local Plan. These Policies seek to ensure the safety of users of the highway and ensure that the transportation needs of development are met through the provision of a range of facilities, including public transport, walking, cycling and parking provision.

Other Matters

19. I have taken into account the concerns of neighbours about aspects including light pollution, as well as noise and traffic issues which have been addressed above. It is apparent that despite races and music concerts being commonplace, they were not felt to be disruptive, other than for the odd incident of antisocial behaviour.
20. I visited a nearby property at the request of the occupiers and noted the relationship between their main outlook and the space which would be occupied by the Christmas Carnival. I anticipate that, even during the winter months with windows more likely to be closed and curtains drawn, that there would still be some effect on the residents inside their home, potentially influencing their decision to install blinds or curtains to close out views and light spill into their living spaces.
21. The introduction of an event over an extended period, out in the central space of the Racecourse, is different in character and duration to those which residents have become accustomed. However, it would still be short-lived and, in the context of the fall-back position that allows an event of this nature to be held for a period of 28 days without restriction, the additional 10 days requested would be of limited consequence, particularly as in granting permission for the event it allows for conditions to be applied that can minimise effects on neighbouring occupiers.

Conditions

22. I have considered the suggested conditions put to me by the Council in the context of the National Planning Policy Framework and Planning Practice Guidance. A condition is necessary to ensure that the event is restricted to a temporary period and that the site is restored afterwards. The time duration for the temporary period has been adapted with agreement of the main parties.
23. A condition is necessary stipulating which plans and documents the development shall proceed in accordance with, in the interests of certainty. Conditions are necessary to restrict and assess noise and light levels in the interests of protecting the living conditions of neighbouring occupiers. For the same reason, a condition restricting the daily start and end times of the Carnival is necessary.
24. In the interests of highway safety, the free flow of traffic on the local highway network and in order to promote sustainable travel, conditions are necessary

requiring details and adherence to a car parking management plan and travel plan.

25. Lastly, for reasons relating to both the impacts on neighbouring occupiers and the impacts on highways, a condition is required to ensure that no music concerts take place for the duration of the Carnival.

Planning Balance and Conclusion

26. I have found that, subject to the imposition of conditions, the proposal complies with the development plan when taken as a whole. The material considerations in this case, namely the fall-back position, weigh in favour of the scheme rather than indicate that a decision should be taken otherwise than in accordance with the same.

27. For the foregoing reasons, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The use hereby permitted shall be for a limited period being the period of 1 year from the date of this decision. The use hereby permitted shall be discontinued and all structures, materials and equipment brought on to the land in connection with the use, shall be removed and the land restored to its former condition on or before 02 September 2024 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 2) The development hereby permitted shall be carried out in accordance with the approved documents and drawings listed below:

Received on 16 April 2021

- Transport Statement
- Servicing & Delivery Plan
- Operations Management Plan
- Luminescence Plan
- Lighting Impact Report
- Proposed Big Wheel & Starflyer Elevations
- Proposed Big Top Circus Elevation & Floor Plan
- Indicative Layout
- Levelling Plan
- Site Sections
- Ecological Information Note Received on 23 June 2021
- Applicant response ref: additional noise information
- Car parking to serve the proposal - Received on 05 August 2021
- Applicant response to Highways – Highways Technical note

- 3) The development hereby permitted shall proceed in accordance with the noise management plan and monitoring arrangements within the Noise Assessment & Noise Management Plan by Vanguardia Ltd received on 16 April 2021; the Generator noise assessment and Generator Noise Barrier details - Echo Barrier by Vanguardia Ltd received on 05 August 2021.
 - a) The applicant shall allow a 22dBA attenuation of external sound levels by closed windows to nearest residential properties during the event.
 - b) The approved noise assessments, mitigations and monitoring shall be implemented and adhered to in full throughout the event.
 - c) The applicant shall inform West Berkshire Public Protection (Environmental Health Officers) and the Local Planning Authority in writing of any and all exceedances of the predicted noise levels as soon as they are discovered and of any and all times when the noise levels are calculated result in higher indoor noise levels than those detailed in BS8233:2014.
 - d) Within 3 months of the last day of the event having taken place, the applicant shall submit to the Local Planning Authority, a noise monitoring report outlining the findings of the noise measurements and monitoring exercises during the event.

- 4) The development hereby permitted shall proceed in accordance with the Light Impact Report by Neil Johnson Consultants received on 16 April 2021 and the Luminescence Plan received on 16 April 2021.
- 5) The use of the development hereby permitted is restricted to the following hours of operation:
 - Monday to Wednesday: 12:00 - 21:00
 - Thursday: 12:00 – 22:00
 - Fridays – Saturdays: 10:00 – 22:00
 - Sundays: 10:00 – 21:00
 - The times apply regardless of bank holidays

After the four race days that are scheduled during the event period, the Carnival would be open from: 16:00 – 22:00.
- 6) Irrespective of the indication in the submitted documents and plans, the use hereby permitted shall not commence until details of parking provision, direction of all traffic accessing the event and traffic management are submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be implemented in full during the event in accordance with the approved plans.
- 7) The use shall not commence until details of the vehicle parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the tarmac or reinforced turf circulation roads, along with improvements ensuring accessibility during the winter months when the carnival will take place. The use shall not commence until the vehicle parking and turning areas have been provided in accordance with the approved details. The parking and turning space shall thereafter be kept available for parking (of private cars and light goods vehicles) during the course of the event.
- 8) The use hereby permitted shall not commence until a final Public Transport Plan has been submitted to and approved in writing by the Local Planning Authority. The Public Transport Plan shall include details of how public transport for event goers will be managed from Newbury Town Centre and Newbury Rail Station to the event. The details shall include timetables and frequency of the public transport service. Thereafter the Public Transport Plan shall be implemented in full during the event in accordance with the approved plans.
- 9) With the submission of any further planning application for any further Christmas carnival events, a post event Transport Assessment and Travel Plan shall be submitted. The submissions will detail how the event proceeded and how improvements can be made going forward. The areas to be considered should include:
 - Details of traffic volumes and visitor numbers per day
 - Servicing and deliveries
 - Traffic management internally and within entrances to the site
 - Signage strategy
 - Impact and combination with other uses within the
 - Travel Plan including mode share data
- 10) There shall be no music concerts during the race days and the duration of the Carnival event hereby approved.