



Appeal Decision

Site visit made on 27 June 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/N0410/C/22/3312570

Greenfields Farm, Grove Road, Burnham, Buckinghamshire SL1 8DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Chris Edwards (Burnham Cars Ltd) against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 5 October 2022.
 - The breach of planning control as alleged in the notice is without planning permission a material change of use of the land to a mixed use comprising of residential, equestrian and vehicle sales (sui generis) (the 'unauthorised use').
 - The requirements of the notice are: 1 Cease the use of the land for vehicle sales (shown in the approximate location cross-marked on the plan attached to the notice). 2. Cease the use of the building (labelled A in the approximate position on the attached plan) for vehicle sales. 3. Remove from the land all items and vehicles that have been brought onto the land in connection with the 'unauthorised use'. 4. Remove from the land all debris and materials resulting from compliance with steps 1 to 3 of this notice.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be varied by in paragraph 6 substituting '3 months' with '9 months' as the period for compliance. Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Ground (a) appeal

Main Issues

2. The appeal site is located within the Metropolitan Green Belt. Therefore, the main issues in this ground of appeal are:
 - Whether the use for vehicle sales constitutes inappropriate development, having regard to the effect on the openness and purposes of the Green Belt, the Development Plan and the National Planning Policy Framework (the Framework).
 - The effect on the character and appearance of the surrounding area.
 - The effect on highway safety.
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, whether this

would amount to the very special circumstances required to justify granting planning permission for the use.

Reasons

3. The site is outside the built-up part of the village, in open countryside interspersed with scattered development. There is a landfill operation alongside, whilst a complex of buildings associated with a large hotel and the glasshouses of a commercial nursery are nearby. The site contains a substantial riding arena. The arena is surfaced with sand and shredded rubber and is enclosed by timber post and rail fencing. Close to the arena are a group of small-scale rural buildings arranged around a yard, together with a residential mobile home. The rest of the site is mostly made up of paddocks. The arena, buildings and mobile home are set well back from Grove Road, the vehicular access being via a private track. Cars offered for sale in conjunction with the use are stationed on the arena. An office associated with the use is in part of one of the buildings.

Whether inappropriate development-Green Belt openness and purposes

4. Policy GB1 of the South Bucks District Local Plan (LP) states that within the Green Belt planning permission will not be granted for the change of use of existing buildings or land where it compromises the purposes of including land within the Green Belt or where its open and undeveloped character is not retained. This is consistent with the Framework, which at paragraph 150 advises that a material change of use is not inappropriate development where it preserves openness and it does not conflict with the purposes of including land within the Green Belt. At paragraph 137, the Framework advises that openness is an essential characteristic of the Green Belt. Openness is generally understood as an absence of development; it is the counterpart of urban sprawl and is capable of having a visual as well as a spatial aspect.
5. As far as I have been made aware, no works of operational development have been undertaken to the arena or the building partly used as an office. The notice does not attack any operations as being part and parcel of or integral to the use. Accordingly, limited permanent physical change has occurred at the site as a result of the use. There nevertheless has been an accumulation of a significant number of cars at the site since the use commenced. When I visited, around 26 cars were stationed on the arena. The cars have a considerable volume, individually and cumulatively. The cars are positioned close together and arranged in rows adjacent to the edges of the arena, with space in the middle for access and manoeuvring. In all, about half of the arena surface was covered with cars. Given the appellant's estimate of around 34 cars being on the arena on any given day, the portion of the ground surface covered by cars is likely to be higher at other times. Some cars might be sold on relatively quickly, whilst others could remain at the site for longer periods. It is highly likely that any sold stock would be replaced fairly quickly. Therefore, a substantial portion of the arena is likely to be covered by cars at most times.
6. Few details of any horse jumps used at the site were supplied. In all probability however, the jumps would have covered a comparatively small portion of the arena on account of their likely modest volume and the limited number, given the space between them required for manoeuvring horses. Whilst larger models of horse transporters might well have visited the site, there was no firm evidence that this was more than an occasional occurrence or that greater than perhaps one or two of these vehicles had been present at any one time. There was no suggestion that the number of other vehicles on the site in association with the previous use had approached the significant number of cars currently stationed on the arena. Therefore, compared to the previous equestrian

activity the use has resulted in a significant and appreciable erosion in openness in a spatial sense.

7. Given the limited scale of the buildings and the low, visually permeable timber fencing separating the arena and the paddocks, the site exhibits open qualities consistent with that of the largely rural surroundings. Although a maturing hedgerow borders Grove Road, there are public views over the site around the entrance as well as from a public footpath nearby. The accumulation of significant substantially sized, manufactured and urban features in the form of the cars stationed close together at the edges of the arena is readily apparent to passers-by, through and above the arena fencing. A similar or greater number of cars are probably stationed on the arena more or less continuously. This has created an appreciable sense of enclosure by obviously fabricated features in the environs, leading to a more urban feel in views of the site and contributing to a significant erosion in the perception of openness.
8. The use does not compare favourably with the previous equestrian activity or the adjacent landfill operation in terms of its effect on the visual aspect of openness. Any horse jumps would in all probability have been relatively insubstantial, albeit brightly coloured features, with gaps between the horizontal and upstanding components. They would probably have been no higher than an average car. Also, for reasons set out above the number of horse jumps on the arena is likely to have been limited. Whilst large horse transporters might be visually assertive features, there is little firm evidence that such vehicles were present at the site in significant numbers or of the presence of large numbers of visitors' vehicles. In any event, horse jumps and horse transporters are not especially remarkable features in a rural situation. Although the cars are viewed in the context of activity associated with the adjacent landfill site that operation is relatively time-limited, whilst the use is likely to be more permanent. Undertaking landscape planting might assist in screening the use from the surroundings but would make little difference to its adverse effect on the spatial aspect of openness.
9. The degree of activity such as traffic likely to be generated can also be a relevant factor when assessing the effect on openness. In all probability, the use has resulted in significant extra activity, including additional vehicle movements along the track, in the yard and in the arena, compared to the previous equestrian use. This increase has led to a greater sense of urbanisation at the site and in its environs, thus contributing to the overall adverse effect on openness. Additionally, as a substantial accumulation of cars is generally associated with a more urban setting the use also amounts to encroachment into the countryside. This is in conflict with one of the purposes of including land within the Green Belt set out in paragraph 138 of the Framework.
10. For the above reasons, the use does not preserve the openness of the Green Belt and conflicts with one of the purposes of including land within it, constituting inappropriate development, being inconsistent with the Framework at paragraphs 149 and 150 and failing to accord with LP Policy GB1. At paragraph 147, the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I attach substantial weight to the totality of the harm to the Green Belt.

Character and appearance

11. The site occupies a markedly rural and attractive setting on account of the prevalence of open fields bordered by maturing hedges and trees in the locality, nearby commercial development notwithstanding. Before the use commenced the site would have had open qualities little affected by incidences

of the equestrian activity such as horse jumps, horse transporters and other vehicles and thus related well to its surroundings.

12. The accumulation of cars associated with the use does not compare favourably with the pre-existing situation. The angular profiles, bright colours and reflective finishes of the cars fail to assimilate satisfactorily with the softer lines, muted colour tones and duller finishes associated with the more natural visual attributes of the rural surroundings. This coupled with their arrangement close together in rows results in the cars being viewed as obvious, alien features, creating a greater sense of enclosure and significantly undermining the visual qualities of the site and its environs. The more permanent changes to the appearance of the site and its influence on the surroundings arising from the use also does not compare with the likely relatively short-term visual consequences of the adjacent landfill activity. Having regard to the largely open qualities of the surroundings, screening the arena with planting would in all likelihood have the effect of drawing attention to the use and so would not satisfactorily address the visual harm identified above.
13. Therefore, the use has caused unacceptable harm to the character and appearance of the surrounding area. This fails to accord with LP Policy EP3, which requires new development to be compatible with the character and amenities of the site and the locality in general, including in terms of its layout and use. The failure to ensure that the development adds to the overall quality of the area, is visually attractive including as a result of its layout and appropriate and effective landscaping and is sympathetic to local character is inconsistent with paragraph 130 of the Framework. In addition, by not understanding and relating well to the site and its local and wider context, the use does not properly reflect a key characteristic of a well-designed place at C1 in the National Design Guide.

Highway safety

14. No details of the vehicle movements to and from the site associated with the previous equestrian activity were supplied. Given the modest size of the buildings and that of the site however, it is not unreasonable to assume that the previous use had been a relatively small-scale operation. It is unlikely that the persons responsible for the horses would have visited the site more than twice a day for purposes of feeding, riding or welfare. Other visits, for example by vets, farriers, for deliveries of hay and other supplies or to transport horses to shows would for the most part probably have occurred on a less frequent basis. Consequently, it is likely that the equestrian use did not generate a significant level of vehicular traffic.
15. The appellant estimated that around 5-7 customers per week visited the site. If the number of cars stationed at the site is indicative of the scale of the business however, this seems like a conservative figure. Even if sales are mostly undertaken online, customers are likely to visit the site to undertake a test drive and/or to collect their purchase. Moreover, if most sales are indeed online it is unclear why the sale price was being displayed on around 10 of the cars when I visited. These factors suggest that, in practice, the number of customers visiting the site is probably appreciably higher than the appellant's estimate. There are also daily vehicle movements to and from the site by the three employees, as well as those associated with the delivery of cars. Consequently, the use has in all likelihood given rise to significant additional traffic movements to and from the site compared to the previous equestrian activity. It is entirely possible that some of those additional movements will be HGVs carrying several cars, such vehicles being considerably greater in size than some larger models of horse transporter. Whilst there is sufficient turning space for cars and perhaps small lorries within the site, it is unclear whether

this is the case with larger HGVs. This raises the further possibility of HGVs being reversed onto the public highway.

16. Grove Road is of varying width, narrowing to a single carriageway in places, it is subject to the national speed limit and lacks separate pedestrian footways and regular street lighting. It was not disputed that the levels of visibility currently available to drivers on exiting the site falls well below the minimum of 2.4 m by 154 m required to ensure that the access is safe. Although when I visited vehicles generally seemed to be travelling at speeds well below 60 mph, it is unclear whether this reflects typical driver behaviour. Consequently, vehicles travelling to and from the site associated with the use, including HGVs, are required to utilise a public road which is not suited to accommodating significant amounts of additional traffic and to exit the site via an access which is significantly substandard in safety terms.
17. Reference was made to three planning permissions granted in and around 2018 for commercial development in the vicinity, which had involved significant increases in traffic including HGVs and which utilised existing accesses onto Grove Road. However, in the absence of further details it is unclear whether the facts and circumstances in the examples are comparable with those in this appeal. In the case of the landfill operation for instance, it is likely that the additional vehicle movements are for a relatively limited period. Consequently, I am not persuaded that these examples are indicative of an inconsistent approach by the Council concerning matters of highway safety. In any event, I have to consider the use in this appeal on the basis of its individual merits.
18. For the above reasons, the use has also led to unacceptable harm to highway safety. This does not accord with LP Policy TR5, which requires development to comply with relevant highway standards. Also, by having an unacceptable impact on highway safety the use is inconsistent with the Framework at paragraph 111. For a similar reason, the use is not consistent with Policy 17 of Buckinghamshire's Local Transport Plan 4 or Guidance 5 in Buckinghamshire County Council's Highways Development Management Guidance.

Other considerations

19. The use provides a small-scale employment opportunity, also supporting economic growth and providing for the diversification of a land-based rural enterprise. This is consistent with paragraph 84 of the Framework, which encourages the sustainable growth and expansion of all types of business in rural areas. Even so, at paragraph 85 the Framework goes on to advise that development to meet local business needs in rural areas should be sensitive to its surroundings and should not have an unacceptable impact on local roads. The use does not achieve either of these objectives. Accordingly, I attach limited weight to the economic benefits arising from the use.
20. No firm evidence was supplied concerning the lack of alternative sites in the area that might otherwise be suitable and available to accommodate the business. Based on the existing operation, to trade elsewhere the business is likely to require little more than a suitably sized area of land together with a small-scale building. There are likely to be a sizeable number of suitable locations in the wider area, for example existing commercial premises or a local trading estate, where a suitable alternative site might potentially be available. Therefore, I afford this matter limited weight.
21. The possibility of unauthorised development occurring at other locations within the Green Belt in future is not a good reason to grant permission for a use which itself is harmful to the Green Belt. This could be repeated, undermining the Development Plan and national policy concerning development in the Green Belt. As a result, this matter does not weigh in favour of granting permission for the use.

Planning balance & conclusion-Ground (a)

22. The use constitutes inappropriate development in the Green Belt. The small-scale benefit to the rural economy arising from the use does not clearly outweigh the totality of the harm to the Green Belt. In addition, there is unacceptable harm to the character and appearance of the area and to highway safety. Accordingly, the very special circumstances necessary to justify granting permission for the use do not exist. It follows that the use does not accord with the Development Plan and it is inconsistent with the Framework. The ground (a) appeal does not succeed.

Ground (g) appeal

23. The ground of appeal is that the time allowed for complying with the notice is unreasonably short.
24. During the appeal process, the Council conceded that the nine-month compliance period sought by the appellant would be more reasonable than the three months specified in the notice. I concur. The appellant would be afforded a more suitable timeframe in which to search for and secure alternative premises, to obtain any necessary permissions required to operate from those premises and to relocate their stock and operations, whilst also as far as is reasonably practicable ensuring business continuity and maintaining employment. Lengthening the compliance period to nine months would therefore strike an appropriate balance between remedying the planning harm identified above in a relatively timely manner whilst also ensuring that the appellant is not disproportionately affected by the notice requirements. To this extent, the ground (g) appeal succeeds.

Conclusion

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR