
Appeal Decision

Site visit made on 10 October 2023

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 02.11.2023

Appeal A Reference: APP/Z1510/W/23/3320712

Land Adjacent to 35 Colne Park Road, White Colne, Colchester, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr. and Mrs. P. Spowage against the decision of Braintree District Council.
 - The application (reference 23/00292/VAR, dated 3 February 2023) was refused by notice dated 29 March 2023.
 - The application sought planning permission for a "*domestic equestrian arena*" without complying with a condition attached to planning permission reference 19/00645/FUL, dated 14 August 2019.
 - The condition in dispute is condition number 3, which states: "*The equestrian arena hereby approved shall be used solely for the exercising of horses, and associated equestrian activities, in connection with and for the private and personal enjoyment of the occupants of 18 Colne Park Road, White Colne. No commercial uses, including livery or a riding school, shall take place whatsoever.*"
 - The reason given for the condition is: "*In order to determine the scope of this permission in the interests of safeguarding the amenities of the occupiers of nearby residential properties and the surrounding areas.*"
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Appeal B Reference: APP/Z1510/W/23/3320713

Land Adjacent to 35 Colne Park Road, White Colne, Colchester, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr. and Mrs. P. Spowage against the decision of Braintree District Council.
- The application (reference 23/00291/VAR, dated 3 February 2023) was refused by notice dated 28 March 2023.
- The application sought planning permission for "*Erection of 2 No stables and feed room*" without complying with a condition attached to planning permission Ref 12/01330/FUL, dated 23 November 2012.
- The condition in dispute is number 3, which states: "*The building(s) hereby permitted shall be used solely for the stabling of horses and storage of associated equipment and foodstuffs, in connection with and for the private and personal enjoyment of the occupants of 18 Colne Park Road, White Colne. No commercial uses including livery or as a riding school or industrial or other storage use shall take place whatsoever.*"
- The reason given for the condition is: "*In order to determine the scope of this*

permission in the interests of safeguarding the amenities of the occupiers of nearby residential properties and the surrounding areas."

Decision

1. Appeal A is allowed and planning permission is granted for a "domestic equestrian arena", on land adjacent to 35 Colne Park Road, White Colne, Colchester, Essex, in accordance with the application (reference 23/00292/VAR, dated 3 February 2023) without compliance with condition number 3 previously imposed on planning permission 19/00645/FUL, dated 14 August 2019, but subject to a revised condition number 3 and to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, as set out in the attached Schedule of Conditions.
2. Appeal B is allowed and planning permission is granted for "erection of 2 No stables and feed room", on land adjacent to 35 Colne Park Road, White Colne, Colchester, Essex, in accordance with the application (reference 23/00291/VAR, dated 3 February 2023) without compliance with condition number 3 previously imposed on planning permission reference 12/01330/FUL, dated 23 November 2012, but subject to a revised condition number 3 and to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, as set out in the attached Schedule of Conditions.

Procedural matter

3. The planning application was made as an "application for removal or variation of a condition following grant of planning permission ...". Section 73 of the Town and Country Planning Act 1990 applies to the appeal, therefore.

Main issue

4. The main issue to be determined in both these appeals is the effect of the proposed development on traffic generation in the area and, hence, also on the character of the surroundings.

Reasons

5. White Colne is a small village in the Essex countryside, focussed on the village green at the junction of Colchester Road, Colneford Hill and Colne Park Road. The buildings in the village are predominantly residential in nature and development has taken place primarily along these road frontages.
6. Colne Park Road leads northwards from the village, crossing the line of an old railway. Beyond the railway there are few houses, mainly sited in a short ribbon of development on the western frontage of Colne Park Road. The last house in this ribbon, at its northern end, is number 35, beyond which the land is essentially open in character.
7. Immediately to the north of the residential buildings, the land to the west of the road is used for grazing and keeping horses, with a large open field adjoining to the north. In connection with the keeping of horses, a "domestic equestrian arena" (manège) and a building containing a "stables and feed room" have been built, adjacent to the old railway line and reached by means

of a long driveway. The building and arena are conventional structures that are architecturally undistinguished but they are set far back from the roadside and are reasonably well separated from the adjoining house at number 35. The appeal site includes the horse paddocks as well as the building and the equestrian arena.

8. The building and equestrian arena are shielded from public views, to some degree, by the lie of the land. They are, in any case, seen against a backdrop of trees and are not visually intrusive (or even very noticeable) in the rural landscape. They are modest in scale and do not appear to cause disturbance to nearby residential properties.
9. The equestrian arena and stables building were the subject of planning permissions that were granted in 2019 and 2012 respectively, subject to a number of conditions. In each case, condition number 3 of the planning permission restricted the use of the facilities to use *"in connection with and for the private and personal enjoyment of the occupants of 18 Colne Park Road, White Colne"*.
10. Number 18 Colne Park Road does not adjoin the appeal site. It is located a short distance away, on the opposite side of the road, closer to the village green, where the houses in the village are more concentrated.
11. It is now proposed that the planning restriction that links the appeal site to the specific named residential property should be removed (but that the restriction to non-commercial use should be maintained).
12. Relevant Policies in the Development Plan are set out in Section 1 and Section 2 of the 'Braintree District Local Plan 2013-2033'. Various policies (for example Policy SP1) are aimed at promoting sustainable development and focussing new development on the main settlements in the District. Outside the main settlements, development in the countryside is normally restricted to that which supports countryside uses, in order to protect the character and appearance of the rural areas and to promote sustainable development.
13. Policy LPP51 of the 'Braintree District Local Plan 2013-2033' is specifically concerned with equestrian facilities and it identifies various criteria for the assessment of new riding schools, stable buildings or other equestrian facilities. Among those criteria is the need to ensure that *"vehicle movements generated by any new building should be able to be safely and efficiently accommodated on the existing road network without detriment to the character of the local area"*.
14. Furthermore, the 'National Planning Policy Framework' stresses the aim of promoting sustainable development and it acknowledges the importance of the natural and local environment, recognising the intrinsic character and beauty of the countryside, among other things. It also emphasises the importance of maintaining highway safety and convenience.
15. The appeal site is located in a rural area and access to it is by way of a minor country road. It would not be a suitable location for a commercial enterprise that could generate more significant levels of traffic. This would give rise to unnecessary and excessive vehicle movements and, moreover, would disturb the rural character of the area. On the other hand, the existing site and

- buildings are suited to a lower key, domestic scale of use, which would give rise to lower levels of traffic generation, appropriate to the rural road network and to the character of the area more generally.
16. The house at 18 Colne Park Road is linked by planning conditions to the appeal site but there is no obvious spatial or other connection between the two. The two properties are within easy walking distance of each other but the walk along the road would not be very comfortable, in the absence of a footpath, and I accept that a car would often be used in practice, because of the need to transport material between the two. I acknowledge that other properties in White Colne or even further afield could have a similar relationship and that it is not necessary for the owners or keepers of horses to live in close proximity to their stables, in principle.
 17. The equestrian holding is small in scale, however, and management or surveillance issues would tend to discourage owners from very far afield, in my view. I have concluded, therefore, that it is unnecessary for the equestrian holding at the appeal site to be linked to a single specific property.
 18. The aim of reducing traffic generation in the countryside is sound, nonetheless, to preserve the character of the countryside, to promote highway safety and convenience and to maintain the principle of encouraging sustainable development. A continued prohibition on commercial use is, therefore, fully justified in this case. Amending the conditions in this way would not conflict with the Development Plan.
 19. It follows that Condition 3 in its current form (as applied to both previous planning permissions) is not reasonable or necessary, in the terms set out in the 'National Planning Policy Framework' (notably at paragraphs 55-56), and that modified conditions ought to be substituted. In considering the terms of the amended conditions, I have taken account of submissions made in the appeals but I am convinced that the new conditions need to be robust.
 20. I have also considered the need for the remaining conditions that were attached to the two previous planning permissions, although I have nothing before me to suggest that other conditions ought to be removed or varied. Certain conditions are no longer relevant, however, since the planning permissions have been implemented. Others may still have some relevance nonetheless, since they imposed requirements for work to be done, and I have retained them for the avoidance of doubt and in order to enable compliance to be reviewed if necessary. Hence all the remaining conditions are to be retained, for the reasons that were originally stated on the Decision Notices.
 21. Although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A

Condition 1: (not reimposed)

Condition 2: The development hereby permitted shall be carried out in accordance with the approved plans, namely:

Location Plan (Plan Reference: 5834/01);
Proposed Site Plan (Plan Reference: 5834/03);
Section (Plan Reference: 5834/04).

Condition 3: The equestrian arena hereby approved shall be used solely for the exercising of horses and associated equestrian activities, as a domestic recreational facility and for private and personal enjoyment only. No commercial uses, including livery or a riding school, shall take place whatsoever.

Condition 4: Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no floodlights shall be installed.

Appeal B

Condition 1: (not reimposed)

Condition 2: The development hereby permitted shall be carried out in accordance with the approved plans, namely:

General drawing (Plan Reference: 1523-13014-1 Version: A).

Condition 3: The building(s) hereby permitted shall be used solely for the stabling of horses and storage of associated equipment and foodstuffs, as a domestic recreational facility and for private and personal enjoyment only. No commercial uses including livery or as a riding school or industrial or other storage use shall take place whatsoever.

Condition 4: No burning of manure or soiled bedding arising from the use of the stables shall occur on the application site.

Condition 5: Development shall not be commenced until details of a native species hedge to be planted on the eastern boundary has been submitted to and approved in writing by the local planning authority. The hedge planting shall be carried out in the first planting season after the commencement of the development unless otherwise previously agreed in writing by the local planning authority. Any plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written consent to any variation.

Condition 6: The existing wooden field shelter within the application site shall be completely demolished not later than two months from the date of the first use of the stables hereby granted planning permission. All materials resulting from the demolition shall be removed from the site.

Condition 7: Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. Prior to the first occupation of the development, any such approved external lighting shall be installed in accordance with details and thereafter so maintained. There shall be no other sources of external illumination.

Condition 8: Prior to commencement of the development hereby permitted details the system, colour and installation of the porous paving system, between the gate and the stable building, shall have been submitted to and approved in writing by the local planning authority. The hardstanding as approved shall be provided prior to the first use of the stable building hereby approved and shall be permanently maintained as such.