



Appeal Decision

Site visit made on 16 November 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/A1910/W/23/3322991

Sky House, 1 Fairydehl Close, Kings Langley, WD4 9FB

- 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 & Mrs Andrew Storey against the decision of Dacorum Borough Council.
 - The application Ref 22/03066/RET dated 7 October 2022, was refused by notice dated 2 December 2022.
 - The development proposed is described on the application form as "New stable block and new boundary fence".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal site address on the application form does not correspond with that on the decision notice and appeal form. However, given that there does not appear to be any dispute between the Council and Appellant on this matter, I have proceeded on the basis of the address shown on the latter two documents.
3. In the absence of evidence demonstrating that the appellant agreed to a change in development description, I have used that shown on the application form. Whilst I recognise that the Council altered this to reflect the retrospective nature of the scheme, this is not relevant to my consideration of the proposal.
4. The revised National Planning Policy Framework ('the Framework') was published on 5 September 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework¹. As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

Main issues

5. The main issues are:
 - the effect of the new boundary fence on the character and appearance of the area;

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

- whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;
- if the development is inappropriate, 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

Appeal site context and background

6. The appeal site falls within the Green Belt and consists of a narrow rectangular paddock with modern stable building (the subject of this appeal), a separate detached timber building and steel container. It is enclosed by a 2 metre high close boarded fence & hedgerow to its southern boundary with Rucklers Lane and a 2 metre high close boarded fence to its east and western boundaries. A post & rail fence forms the northern boundary, separating the appeal site from adjacent paddock land which falls under the control of the appellant.
7. Planning permission was granted in 2020 to redevelop the complex of buildings to the north of the appeal site (known as Fairydeil Farm) to provide 4 dwellings² ('the housing development'). According to the Council, these buildings previously served the appeal site & adjacent paddock land and were within the same ownership when the application was considered.
8. A planning application to retain the stable block and 2m high close boarded fence the subject of this appeal was first made in 2022³. Following its refusal, the appellant submitted a revised scheme with additional information, which is the subject of this appeal.
9. The scheme before me does not propose a change of use of the land. Although the evidence does not clarify the lawful use of the appeal site, the appellant states that the new stables are used for the keeping of up to 4 horses/ponies for private recreational use and that the adjacent paddock land to the north would be used in connection with this. The Council's evidence does not dispute the lawfulness of this use and as a consequence, I have considered the proposal on this basis.

The effect of the new boundary fence on the character and appearance of the area

10. The Council has raised no objection to the appellant replacing the 2m high close boarded fence at the entrance to Fairydeil Close with a post & rail fence and I see no reason to take a different view as this is a traditional form of boundary treatment consistent with the rural character of the area.
11. However, the 2m high close boarded fence has a strident urban appearance wholly out of character with its countryside location. I recognise that it would be partly concealed by the hedgerow on Rucklers Lane, but given its deciduous nature and the narrowness of this strip of land it would not fully screen the fence throughout the year, even if it was reinforced with additional indigenous planting. In any event I do not consider reduced public visibility to be a sound

² Ref 19/02791/FUL

³ Ref 22/00117/RET

basis upon which to justify an otherwise harmful design as this could be repeated too easily and often for all forms of poor quality development.

12. Although the appellant states that the close boarded fence may not require planning permission, I consider there to be reasonable grounds to conclude that it may be adjacent to a highway used by vehicular traffic on the basis of its very close proximity to Rucklers Lane, which would mean that it does not qualify as permitted development (it would exceed 1 metre in height)⁴. In any event, the lawfulness of the fence is not a matter for me to determine in the context of the current appeal which is made under section 78 of the Town and Country Planning Act 1990. If the appellant considers the fence to be permitted development, it is open for them to apply to have the matter determined under sections 191 or 192 of the Act (a certificate of lawfulness) and any such application would be unaffected by my determination of this appeal.
13. In view of the above, I conclude that the 2m high close boarded fence would be harmful to the character and appearance of the area. This element of the scheme would therefore conflict with Policy CS12 of the Core Strategy⁵ which seeks, amongst other things, to ensure that new development integrates with streetscape character and is not visually intrusive.

Whether the proposal would be inappropriate development in the Green Belt

14. Policy 81 of the Local Plan⁶ states that small scale equestrian facilities will normally be permitted in the Green Belt provided they meet a range of criteria. Given the limited size of the stable block, I am satisfied that it would constitute a small scale facility and not be a commercial equestrian use. It would also accord with the specified policy criteria insofar as; (1) it is well located in relation to a byway to the east which links up with a bridleway in Felden; (2) it has been well integrated into the rural landscape given its placement next to a hedgerow; (3) it is compatible in scale & design with its countryside setting and ancillary to the overall equestrian use; and (4) there is sufficient grazing to accommodate 3 to 4 horses/ponies. As a consequence, I conclude that the scheme would comply with Policy 81 of the Local Plan.
15. Nevertheless, Policy CS5 of the Core Strategy states that the Council will apply national Green Belt policy to protect, amongst other things, the openness of the Green Belt. It also states that a range of specific small scale developments will be permitted within the Green Belt on the provision that;- (1) they have no significant impact on the character and appearance of the countryside; and (2) they support the rural economy and maintenance of the wider countryside.
16. On the basis of the evidence before me, the proposed development does not fall within any of the specified small-scale developments referred to in Policy CS5. However, in accordance with the opening paragraph of this policy, it also falls to be considered against national Green Belt policy.
17. Paragraph 149 of the Framework states that a local authority should regard the construction of new buildings as inappropriate in the Green Belt, aside from a number of exceptions, which include the provision of appropriate facilities for outdoor recreation as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

⁴ Schedule 2, Part 2, Class A, The Town and Country Planning (General Permitted Development) Order 2015.

⁵ Core Strategy 2006-2031, adopted 25 September 2013, Dacorum Borough Council.

⁶ Dacorum Borough Local Plan 1991-2011, adopted 21 April 2004.

18. 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.
19. I am satisfied that the scheme would constitute an appropriate facility for outdoor recreation. However, despite; (1) the modest size & height of the stable block and close boarded fence and their partial screening from Rucklers Lane by a hedgerow strengthened by additional indigenous planting; and (2) additional landscaping in connection with the housing development, both structures would still nonetheless be clearly visible from Fairydeil Close. Furthermore, the extent of close boarded fencing and volume of the stable block would materially increase the amount of built form at the site. The development would as a consequence;- (a) not preserve the openness of the Green Belt; and (b) conflict with the purpose of including land within it. This means that the scheme would not accord with the outdoor recreation exception outlined at Paragraph 149 of the Framework.
20. In light of the above, I conclude that the scheme constitutes inappropriate development in the Green Belt. It would therefore fail to comply with Policy CS5 of the Core Strategy which seeks, among other things, to apply national Green Belt policy to applications and protect the openness of the Green Belt.

Other considerations

21. Policy 81 of the Local Plan is not consistent with Policy CS5 of the Core Strategy or the Framework inasmuch as it permits development not falling within any of the specified national Green Belt exceptions. As a consequence, I have given the scheme's compliance with Policy 81 only modest weight in my assessment. I have however given significant weight to the scheme's conflict with Policies CS5 and CS12 of the Core Strategy as this document was adopted much more recently than the Local Plan and because I consider these policies to be consistent with the Framework insofar as they relate to the proposal. In view of this, I conclude that the proposal's conflict with Policies CS5 and CS12 of the Core Strategy outweigh its compliance with Policy 81 of the Local Plan and that the scheme conflicts with the development plan when taken as a whole.
22. Paragraph 147 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 148 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
23. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 148 of the Framework, I have given substantial weight to this harm in my assessment.
24. Given the close proximity between their home and the appeal site, I can understand the appellant's desire for a stable block and acknowledge that the existing field shelter may be inadequate. I also recognise that a stable block would be consistent with the private equestrian use of the site and rural

character of the area and that such uses assist in the maintenance of the wider countryside. However, be that as it may, this in itself does not represent the very special circumstances necessary to justify harm to the Green Belt as required by the Framework. For me to have reached this conclusion, there would have needed to be evidence revealing the absence of other stables in the local area to accommodate the appellant's horses/ponies and why they need to be kept in close proximity to their home for animal safety, security, welfare or medical reasons. In the absence of such information, I am unable to conclude that other considerations clearly outweigh the harm to the Green Belt.

25. The appellant states that insufficient consideration was given during the housing development application to the loss of the previous stables which served the current appeal site and adjacent paddocks. However, I do not consider this to be unusual given that many equestrian paddocks and agricultural fields exist without stables directly adjacent to them.
26. In view of the above, I find that there are no very special circumstances that clearly outweigh the scheme's harm to the Green Belt by reason of inappropriateness, and the limited harm to its openness and permanence. As a consequence, I conclude that the development would conflict with Policy CS5 of the Core Strategy, and also find that it would not accord with Paragraphs 147, 148, 149 and 150 of the Framework.

Conclusion

27. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

Robert Fallon

INSPECTOR