



Appeal Decision

Site visit made on 16 January 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/R1038/W/23/3326648

Land approximately 100m west of Rosedene, south side of Hut Lane, Killamarsh S21 1BQ

- 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 Elizabeth Barton against the decision of North East Derbyshire District Council.
 - The application Ref 23/00068/FL, dated 24 January 2023, was refused by notice dated 28 June 2023.
 - The development proposed is a stable block.
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Decision

1. The appeal is allowed and planning permission is granted for a stable block at land approximately 100m west of Rosedene, south side of Hut Lane, Killamarsh S21 1BQ in accordance with the terms of the application, Ref 23/00068/FL, dated 24 January 2023, and subject to the conditions in the schedule to this decision below.

Procedural Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referred to the updated paragraph numbers where applicable.
3. The address of the appeal site differs in the submitted documents. For clarity, the address in the banner heading above has been taken from the planning application form.
4. The description of development on the application form and decision notice relates only to the construction of a stable block. There is no suggestion in the information before me that permission is sought for the change of use of the land for the keeping of horses, the construction of an access track across the field, or any hard surfaced areas for the parking or turning of vehicles. I have therefore determined the appeal on this basis.

Main Issues

5. The main issues are:
 - a) whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt and the purposes of including land within it; and

- b) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Whether Inappropriate Development

6. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Paragraph 154 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One such exception is (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy SS10 of the North East Derbyshire Local Plan 2014-2034, adopted 2021 ('the LP') refers to new buildings in the Green Belt, which echoes the wording contained within paragraph 154 of the Framework.
8. No definition of what constitutes an 'appropriate' facility is provided within the Framework. Therefore, this is a matter of judgement based upon the circumstances of any given case.
9. It is proposed to construct an L-shaped building consisting of five stables and a tack room to be used for the stabling of the appellant's horses. The information before me suggests that the appellant keeps five horses in the field and at the time of my site visit, it was occupied by three horses and a Shetland pony. The building would be constructed of timber, with a shallow pitched roof that would overhang the stable doors. Its design and materials are typical of stable buildings. I therefore conclude that the proposed stable would be an appropriate facility for outdoor sport/recreation.
10. The proposed building would be constructed on land that is presently open. Furthermore, it would be visible by users of the adjacent Public Right of Way – Killamarsh FP 48 ('PRoW') (that is also part of the Council's cycle network and a greenway) and through a gap when travelling northeast along Hut Lane. Therefore, in visual and spatial terms, it would have an effect on the openness of the Green Belt. However, this could be said for any new 'appropriate' facility for outdoor sport/recreation within the Green Belt. If this had been the intention of paragraph 154(b) of the Framework, there would have been no point including it within the list of exceptions. Consequently, the assessment on the effect on openness should not simply relate to the size of the proposed building but also its function. If that function is appropriate, some built development could be accommodated without harming the openness of the Green Belt.
11. The size of the proposed building is reasonable for five horses and a tack room, and its eaves and ridge height have been kept low. Consequently, I find that the proposed building is of a scale that would accommodate the needs of the appellant while respecting the need to preserve the openness of the Green Belt. Additionally, the proposed building would be used for the stabling of the

appellant's horses and therefore the degree of activity arising from the proposal would likely be limited.

12. Of the five purposes of including land within the Green Belt, as listed at paragraph 143 of the Framework, the proposed building could fail to safeguard the countryside from encroachment as it would represent a new isolated building on land that is presently undeveloped. However, considering the function of the proposed building and its modest L-shaped design, I am satisfied that the scale of the proposal would not result in a level of encroachment that would be contrary to this purpose of the Green Belt.
13. In reference to the first main issue, the proposal would not comprise inappropriate development in the Green Belt and would comply with the exception set out in paragraph 154(b) of the Framework and Policy SS10 of the LP. The Council's first reason for refusal also refers to Policy SS1 of the LP in respect of sustainable development which is not directly relevant to this main issue.

Character and Appearance

14. The proposed stable would be positioned in the northwest corner of a large field, adjacent to a tree belt that forms the northern boundary to the road. Access into the field is via an existing gate within the northeast corner, that also provides access to an agricultural building via a track that is also a PRoW. The field rises from the road in a southeast direction before reaching the brow and then falling towards the agricultural building. The appeal site forms part of the Wooded Farmlands Landscape Character Type within the South Yorkshire, Nottinghamshire and Derbyshire Coalfield Landscape Character Area. The area surrounding the appeal site consists of undulating fields interspersed with tree belts, woodlands and hedgerows. The settlement of High Moor is in proximity, and there are existing equestrian developments on the opposite side of Hut Lane.
15. Views of the appeal site and the proposed building would be limited to the local area due to the undulating nature of the surrounding land, the presence of trees and woodlands, and the building's siting within the lowest part of the field and adjacent to an existing tree belt. At the time of my site visit, the deciduous tree belt effectively screened the field when travelling southwest along Hut Lane, even though the leaves had fallen from the trees. This was largely due to the presence of Ivy and other vegetation. As previously described, a gap towards the end of the tree belt would allow a view of the proposed building to be gained when travelling northeast along Hut Lane, however, this would be fleeting.
16. A PRoW follows the track along the eastern edge of the field. Consequently, the proposed building would be visible to the users of the PRoW. However, it would be sited on the opposite side of the field from the PRoW against the backdrop of a tree belt and its limited scale would ensure that it would not appear unduly prominent. Furthermore, its design and materials would ensure that it would be similar to other stables commonly found within countryside locations and therefore would not appear incongruous.
17. In reference to the second main issue, the proposed development would not adversely affect the character or appearance of the surrounding area. It would comply with Policies SS1, SS9, SDC3 and SDC12 of the LP which, amongst

other things, seek to protect and/or enhance the character, quality and diversity of the district's local landscapes; respect the form, scale and character of the landscape; and permit development that responds positively to local character and context and which is well-related to its site and surroundings. It would also comply with the Framework that seeks to achieve well-designed and beautiful places.

Other Matters

18. Concern has been raised regarding the effect that equestrian related paraphernalia could have on the openness of the Green Belt and the character and appearance of the surrounding area if it were to be stored on the surrounding land. However, the Council, in their list of suggested conditions, has included a condition that would prevent this from occurring.
19. I have been directed to two appeals concerning unauthorised stable blocks within the district to support the Council's case. Other than the appeal decision, limited information has been provided. Furthermore, the first¹ appeal comprised a blockwork stable building and two timber stables which the former was described as being domestic in character and appearance. The second² appeal included two stables, an access track, hardstanding, and the construction of three fishing ponds and associated embankments, with the stable buildings being described as *"significant in scale and prominent in view when seen from the surrounding higher ground"*. On this basis, the evidence before me suggests they are not directly comparable to the appeal proposal. In any event, I must determine the proposal on its own merits.

Conditions

20. I have had regard to the conditions suggested by the Council and the tests for conditions set out within the Framework. As a result, I have made amendments to some of the conditions in the interests of clarity and precision, and I have deleted and included others. The main parties have had the opportunity to comment upon these changes and I have taken them into consideration.
21. In addition to the standard condition, which relates to the commencement of development, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have included a condition requiring the building to be constructed in accordance with the submitted details to ensure the external appearance of the building is acceptable. While this condition was not included within the Council's list of suggested conditions, both parties agreed to its inclusion should I be minded to allow the appeal.
22. It is necessary for the building to be conditioned for private use and for a scheme of waste management to be agreed between the main parties to ensure the proposal does not affect the living conditions of the occupiers of neighbouring properties or the character or appearance of the surrounding area. A condition prohibiting external lighting is necessary to prevent any adverse effect on wildlife and the rural character of the surrounding area. While a condition prohibiting the external storage of items/vehicles is necessary to ensure the appearance of the site is acceptable and does not adversely affect the openness of the Green Belt.

¹ Appeal Ref APP/R1038/C/22/3302566

² Appeal Ref APP/R1038/C/22/3302567

23. The appellant has questioned the requirement for a condition in respect of biodiversity enhancements given the limited impact they consider the proposal would have on biodiversity. However, Policy SDC4 of the LP seeks to increase the quantity and quality of biodiversity within the district. A drawing titled 'Enhancement Plan'³ details biodiversity enhancements for the appeal site including the planting of four trees and a native species hedgerow, and the installation of two swallow nest cups and two improved crevice bat boxes. However, the drawing excludes detailed information including the size of the specimens, the definitive species of tree(s), the exact trees on which the bat boxes would be erected, and a timetable for their implementation. Therefore, a condition requiring details to be submitted and approved is necessary.
24. A condition in respect of parking and manoeuvring is not reasonable or necessary as no parking is proposed as part of the proposal. Should there be a requirement in the future, this would necessitate a further planning application. The Highways Authority request a condition regarding the provision and maintenance of visibility splays at the access. However, the information before me suggests that the land to either side of the access is not within the appellant's ownership and therefore a condition could not be imposed. However, from my observations on site and my consideration of the visibility splay drawing, it would appear that the existing access adheres to the required visibility splays and no vegetation grows within them, therefore its use would not have an unacceptable impact on highway safety.
25. The main parties reference the provision of a concrete apron to the front of the stables. While the appellant suggests that the concrete apron is shown on the submitted drawings, this is not clear. Therefore, a condition requiring details of the concrete apron to be submitted and approved is reasonable and necessary to ensure the appearance of the proposal is acceptable to the surrounding area.

Conclusion

26. The proposed development would not be inappropriate development in the Green Belt as it would comprise an appropriate facility for outdoor sport/recreation. As such, there would be no harm caused to the Green Belt by the proposal and therefore it is not necessary for me to consider whether very special circumstances exist. Furthermore, the proposed development would not result in harm to the character or appearance of the surrounding area.
27. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

A Berry

INSPECTOR

³ Drawing Ref JME_1912_DR1_V1

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Floor Plan and Elevations, Location Plan.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials detailed within the planning application form and paragraph 3.2 of the appellant's Appeal Statement dated July 2023.
- 4) Prior to the use of the stables hereby approved, a drawing showing the extent and siting of a concrete apron shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 5) The building hereby permitted shall not be used other than to accommodate horses belonging to the owner of the site and kept for the purpose of private outdoor sport and recreation. The stable block shall not be used for DIY livery or serviced livery or for any other trade or business purpose.
- 6) Before the development hereby permitted is brought into use, a scheme for the management of waste and manure shall be submitted to and approved in writing by the local planning authority. The management of waste and manure shall thereafter be undertaken in accordance with the approved details.
- 7) Before the development hereby permitted is brought into use, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. The plan shall provide for (although not be limited to) biodiversity rich native planting and 2no swallow cups and shall include a timetable for its implementation. The plan shall be implemented in accordance with the details and timetable as approved and shall be retained thereafter.
- 8) No external lighting shall be installed on the site.
- 9) There shall be no outside storage of any items or vehicles associated with the use and no parking on the land of horse boxes except when in use for the purpose of transporting horses.

*****End of Conditions*****