



Appeal Decision

Site visit made on 6 February 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/Y9507/W/23/3323259

Horse Chestnut Farm, The Causeway, Petersfield GU31 4LR

- The appeals are 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 previous planning permissions were granted.
- The appeals are made by Mrs Nichola Blake (Equine Events Partnership) against the decision of South Downs National Park Authority.

APPEAL A

- The application Ref SDNP/21/01232/CND, dated 1 March 2021, was refused by notice dated 24 January 2023.
- The application sought planning permission for a change of use of land from agriculture to a mixed agriculture and equestrian use and retention of internal works to form loose boxes without complying with a condition attached to planning permission Ref SDNP/15/03090/FUL, dated 28 August 2015.
- The condition in dispute is No 3 which states that:
"The development hereby permitted shall be used only for private, non-commercial, stabling and equestrian use and shall at no time be used for any trade or business including livery stabling".
- The reason given for the condition is:
"To prevent the stables and land from being used for commercial purposes since the increased use of the premises and generation of additional traffic would be detrimental to the amenities of the area".

APPEAL B

- The application Ref SDNP/21/01232/CND, dated 1 March 2021, was refused by notice dated 24 January 2023.
 - The application sought planning permission for an all weather menage without complying with a condition attached to planning permission Ref SDNP/16/05326/FUL, dated 1 February 2017.
 - The condition in dispute is No 2 which states that:
"The development hereby permitted shall be used only for private, non-commercial, stabling and equestrian use and shall at no time be used for any trade or business including livery stabling".
 - The reason given for the condition is:
"To prevent the stables and land from being used for commercial purposes since the increased use of the premises and generation of additional traffic would be detrimental to the amenities of the area".
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Decisions

1. **APPEAL A** - The appeal is dismissed.
2. **APPEAL B** - The appeal is dismissed.

Preliminary Matters

3. The application that was determined by the Council related to conditions on two separate planning permissions. Whilst only one decision notice was issued, it was, effectively, a refusal of two separate applications under section 73. Consequently, albeit that the appeal was submitted on a single form and under one reference number, it actually results in two separate appeals, as set out in the banner heading. I am satisfied that the description of the original application clearly set out what was proposed, and that the consultation arrangements gave all parties the opportunity to make representations. Consequently, I see no prejudice to any party in my consideration of the appeals on this basis.
4. It has been questioned in representations whether the appeal was submitted in time, bearing in mind that a Breach of Condition Notice (BCN) had been served by the Council on 11 November 2021 in respect of Condition 3 of SDNP/15/03090/FUL. However, the shortened appeal period of 28 days, set out in paragraph 37(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, only applies where an enforcement notice has been served, rather than a BCN. The Council's decision notice stated that the applicant had six months to make an appeal, and the appeal was submitted within this period.
5. The Council's reasons for refusal refer to paragraphs 111 and 130 of the National Planning Policy Framework (the Framework). During the appeal, on 19 and 20 December 2023, the Government published its revisions to the Framework. The relevant paragraphs have been renumbered 115 and 135, but otherwise remain unaltered. The overall revisions to the national advice do not have a material bearing on the matters at dispute between the parties in this case. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised advice in my determination of the appeal.

Background and Main Issues

6. Horse Chestnut Farm is approximately 6 Hectares of land that lies between the A3 to the west, and the B2070 to the east. The only vehicular access to the site is off the head of a small residential cul de sac known as The Causeway. In 2015, planning permission was granted for mixed agricultural and equestrian use of the land, together with the retention of eight loose boxes within an existing building on the site. In 2017, permission was granted for an all-weather menage close to this building. Both permissions were subject to a condition limiting the use of the site to private, non-commercial, stabling and equestrian use. The application sought to remove the condition from each of the permissions, so that the land, stables and menage could be used for commercial purposes.
7. The main issues in both appeals are whether the removal of the condition would result in an increase in traffic using the access, and, if it would, the effect of the additional traffic on:
 - a) highway safety; and,

- b) the living conditions of neighbouring residential properties, with particular regard to noise and disturbance.

Reasons

Traffic generation

8. I have not been provided with any results of vehicle counts identifying the current level of traffic associated with the existing use of the site for private equestrian purposes and agriculture. However, as there is no dwelling on the site, the owners would need to visit on a daily basis to tend to the horses, and to ride them. However, as they would all be in the same private ownership, at each visit to the site the needs of all of the horses could be dealt with at the same time. The evidence submitted with the application indicates that the current owners visit the site twice daily. As the horses would all be under the care of one private owner, it could be expected that supplies of feed, bedding, etc would be efficiently arranged, to cover the needs of all of the horses under each delivery. Similarly, it is likely that other visitors to the site, such as vets, would be co-ordinated so that routine matters could be addressed in one visit.
9. Whilst it is stated that some of the stables would still be used for private purposes, the application is for the removal of the condition, which would allow all eight stables to be used for livery. Using the appellant's own assumptions, each livery stable would result in two visits per day by each horse owner. This would result in 16 visits to the stables per day, as opposed to the current two. Furthermore, whilst it is stated that the owners would ensure that deliveries would be made corporately, this would be difficult to control, and individual owners may have particular preferences for feed or suppliers, potentially resulting in more delivery vehicles attending the site. Other visits to the site from vets and tradespeople would not be so easily co-ordinated with eight individual owners, so additional vehicle movements would be likely.
10. The appellant suggests that eight privately owned horses could give rise to similar levels of traffic, if two grooms and two freelance riders were employed to visit the site twice a day. However, I am not persuaded that this is a more than theoretical scenario, and the appellant's own evidence suggests that eight stables are considered to be too many for most private users. Consequently, on the evidence before me, I conclude that the removal of the condition under Appeal A would result in an increase in traffic visiting the site.
11. The menage is located in close proximity to the stables. I have not been provided with any evidence to suggest that its authorised private use generates any traffic movements. Removal of the condition would, however, allow its use by anybody. This would include the owners of the horses at livery (if the condition under Appeal A were removed), who may invite family and friends to the site to ride their horse. Removal of the condition would also allow the facility to be hired out to other horse owners who may not have access to such a facility, or for the provision of riding lessons, or specialist training of horses. This would be likely to involve transporting horses to and from the site. The removal of the condition under Appeal B would also, therefore, be likely to involve an increase in traffic attracted to the site.
12. I am mindful that, if the site were not used for equestrian purposes, it could be used for agriculture. Such a use would inevitably involve some vehicular use of the access. However, the area of land is not extensive, and the nature of the

access is likely to deter an intensive use requiring large vehicles or regular movements of livestock. On the evidence before me, I am not convinced that an alternative agricultural use would be likely to generate the same frequency of traffic movements as a commercial equestrian use of the land, buildings and menage.

13. I therefore conclude that the removal of the conditions would, individually and cumulatively, result in an increase in traffic using the access.

Highway safety

14. Access to the site is gained via a residential cul de sac that has a junction with the B2070. I saw that this junction has been constructed with appropriate entrance radii, and a carriageway of approximately five metres, with pavements on either side. It allows drivers of emerging vehicles good visibility in both directions, and is suitable to cater for the likely increase in traffic that would be generated by the removal of the conditions.
15. Beyond the junction, the footways are curtailed and the cul de sac becomes a shared surface. The change in the nature of the road is marked by a ramp, and the use of paviors for the surface. There is no clear demarcation of pedestrian or vehicle routes, and no road markings. All the houses have their own off-street parking facilities, and I saw no evidence that on-street parking was likely to be prevalent. As a shared surface, the cul de sac is designed to allow both pedestrians and vehicles to safely pass across the entire area without segregation.
16. I am mindful that the Highway Authority has objected to the proposal on the basis that the increased vehicular use of the cul de sac would create an associated rise in the likelihood of conflict with pedestrians. However, traffic within the cul de sac would be forced to slow down on entering the site by the entrance ramp. The road is short and straight, so drivers and pedestrians would have good visibility of each other. Furthermore, the carriageway is easily wide enough to allow a slow-moving vehicle and pedestrian to pass safely. Manual for Streets advises that shared surface streets are likely to work well in short lengths, or where they form cul-de-sacs, where the volume of motor traffic is below 100 vehicles per hour, and where parking is controlled or takes place in designated areas.
17. I have concluded that the removal of the conditions would result in an increase in traffic using the access. However, the extra vehicles would be slow-moving and would be passing through a short cul de sac that has been specifically designed to function as a shared surface. There is no evidence to suggest that the resultant volume of vehicle movements within the cul de sac would be anywhere near 100 vehicles per hour, so I have no reason to conclude that it would not continue to function safely as a shared surface.
18. The removal of the conditions would not, therefore, either separately or cumulatively, result in harm to highway safety. Consequently, the proposals would accord with Policy SD21 of the South Downs Local Plan (2014-33) (the Local Plan), which says development proposals will be permitted provided that they protect and enhance highway safety. There would also be no conflict with the advice at paragraph 115 of the Framework, which says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Living conditions

19. As it is the only means of vehicular access to Horse Chestnut Farm, all visiting traffic must pass through the cul de sac. However, to reach the site itself, vehicles must also traverse a narrow driveway that extends off the head of the cul de sac between Nos 257 and 259 The Causeway. This driveway then turns a right-angle bend that wraps around the corner of No 259 to arrive at the access gate. Beyond this gate is a parking area that leads onto another access gate to the main equestrian yard.
20. Traffic using the driveway must pass so close to the front elevation of No 259 and the side elevation of No 257, that some disturbance of occupants is inevitable. The ground floor side-facing windows of No 257 are within two metres of the drive. Whilst they are set behind a fence and hedge, this would only provide limited protection from the engine noise and fumes from vehicles that would be in such close proximity. On the opposite side, the primary elevation of No 259 faces the driveway at very close quarters. Traffic passing this elevation could be within 1.5 metres of the main ground floor living room window, and there is no intervening screening. At such close proximity additional vehicle noise would be harmful to the peaceful enjoyment of the accommodation. It would not be possible to mitigate this harm, as the provision of a hedge or fence would be so close to the window that it would block light to the room, and outlook from it.
21. As the driveway turns around the corner of No 259, it is even closer to the building. Here, the noise from passing vehicles would be almost adjacent to another ground floor window that serves habitable accommodation, with no possibility of any mitigation to offset the resultant disturbance. Consequently, the increase in traffic using the driveway, particularly delivery vehicles and horseboxes, would be harmful to the living conditions of the occupants of Nos 257 and 259 The Causeway.
22. The parking area beyond the access gate provides space for about eight cars. Activity in this area would be separated from the rear garden of No 259 by the close-boarded boundary fence and gates of the carpark, a water pumping station, and the two-metre garden boundary fence of No 259. Consequently, the activity from the small vehicles of visitors in this area would not cause significant disturbance to the occupants of No 259. The appellant contends that larger vehicles would use the yard area for deliveries and the movement of horses. This may well be the case, as there is a large yard area available for this purpose beyond the second access gate, and I saw two horseboxes in this area at my visit. However, in order to reach this yard, the vehicles would first have to pass in close proximity to the windows in Nos 257 and 259, resulting in the harm that I have identified above.
23. For the reasons given above, I conclude that the increase in traffic along the access drive beyond the cul de sac would result in harm to the living conditions of the occupants of Nos 257 and 259 The Causeway, through additional noise and disturbance. Consequently, the removal of the conditions would, individually and cumulatively, be contrary to Policies SD24 and SD54 of the Local Plan, which seek to ensure that development proposals, including equestrian uses, respect the amenities and activities of surrounding properties and uses. There would also be conflict with the aim of the Framework to create

places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

24. In arriving at my conclusion, I have had regard to the representations that have been made in support of the proposal. I have no reason to doubt that the facilities are of a high standard, and that the site has good access to the surrounding countryside. A wider commercial equestrian use of the site could provide benefits to the rural economy and the wellbeing of riders. These benefits of the proposal carry moderate weight in my decision. However, they do not outweigh the harm that would be caused to the living conditions of existing occupants, and the resultant conflict with development plan policies.
25. It is contended in representations that there is no right of access to the appeal site across the cul de sac. This is disputed by the appellant, and is not a matter that is before me for resolution in this appeal.

Conclusion

26. For the reasons given above, I conclude that the appeals should be dismissed.

Nick Davies

INSPECTOR