



Appeal Decision

Site visit made on 13 February 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/W1525/W/23/3325973

Land South East of Four Oaks, Ivy Barn Lane, Margaretting, Ingatestone, Essex CM4 0EW

- 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 Darren Conroy against the decision of Chelmsford City Council.
 - The application Ref is 23/00234/FUL.
 - The development proposed is change of use of land to equestrian use including construction of stable block with 3 stables and feed/tack store. Formation of new access, with gate and driveway. Installation of fencing.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to equestrian use including construction of stable block with 3 stables and feed/tack store. Formation of new access, with gate and driveway. Installation of fencing at Land South East of Four Oaks, Ivy Barn Lane, Margaretting Ingatestone, Essex CM4 0EW in accordance with the terms of the application, Ref 23/00234/FUL, subject to the conditions contained in the Schedule of Conditions at the end of this decision.

Preliminary Matters

2. I have used the description of development taken from the Decision Notice that was also used on the appeal form. This included reference to the formation of new access, with gate and driveway and installation of fencing that was not included in the original description of development. The submitted plans identify that these elements of the development are proposed and as such this description better describes the development proposed. Given that the description has been used by both parties I am satisfied that neither party would be prejudiced by this approach.
3. Since the Council issued its decision, a revised National Planning Policy Framework (the Framework) was published in December 2023. The main parties have been given the opportunity to comment on the updates to the Framework and I have taken these into consideration in my decision.

Main Issue

4. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and linked to this the effect of the proposal on the openness of the Green Belt and the purposes of including land within it and the effect of the proposal on the character and appearance of the area.

Reasons

The Framework and Development Plan Policies

5. Policy DM6 of the Chelmsford Local Plan 2020 (LP) states that new buildings will not be inappropriate development in the Green Belt where, among other criteria, they provide appropriate facilities for outdoor sport and outdoor recreation as long as it preserves the openness of the Green Belt. The supporting text for LP Policy DM6 states that buildings for outdoor sport and outdoor recreation will include stables for the keeping of leisure horses.
6. This is generally consistent with the fundamental aims of Green Belt policy set out in the Framework and particularly paragraph 154 b).
7. Policy DM10 of the LP refers to the change of use (land and buildings) and engineering operations in the Green Belt, although the Council state that the policy itself does not permit the change of use of land within the Green Belt. However, regarding engineering operations the policy echoes the wording contained in paragraph 155 b) of the Framework although it also requires that engineering operations within the Green Belt do not harm the character and appearance of the area.
8. Paragraph 155 b) and e) of the Framework state that engineering operations and the material changes in the use of land (such as changes of use for outdoor sport or recreation) would be not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
9. Policy S11 of the LP states that the Green Belts openness and permanence will be protected and opportunities for its beneficial use will be supported where consistent with the purposes of the Green Belt.
10. The proposed stable block would be a narrow single storey building consisting of three stables and a feed/tack room. It would be built from timber with a shallow pitched roof and the design and materials proposed would be typical for an equestrian style stable block. There would also be a modestly sized paddock which would provide a grazing area for the horses and the appellant intends to use the proposed development for keeping their own leisure horses. Consequently, I conclude that the proposed stable block would be an appropriate facility for outdoor sport/recreation.
11. Accordingly, it is necessary to consider whether the proposal, including the material change of use of the land and the engineering operations, would preserve the openness of the Green Belt and whether it would conflict with the purposes of including land within it.

The effect of the proposal on the openness of the Green Belt and the purposes of including land within it

12. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. It is established in case law¹ that whether or not change will have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications.

¹ Samuel Smith Old Brewery (Tadcaster) & Oxton Farm v North Yorkshire CC & Darrington Quarries [2018] EWCA Civ 489

13. The site is currently open agricultural land that is bound on all sides by trees and hedges. Either side of the site are residential buildings and to the rear of the site is a slip road for a dual carriageway. Between the dual carriageway and the site is a thick tree belt and as such there are limited views beyond the site. These views are also partly screened by another tree belt that extends along the boundary of the adjacent property. However, the trees and hedges that bound the site along Ivy Barn Lane are more sporadically sited and allow views from the road across the site.
14. A footpath is identified on the plans crossing the site. However, the Ramblers Associations comments on the application stated that footpath 226_17 Path (UM) has now been extinguished. This limits the viewpoints from where the proposal would be seen from.
15. The proposed stable block would be built perpendicular to Ivy Barn Lane with the narrow end of the stable block facing towards the road. The proposed access and driveway would be taken via Ivy Barn Lane and the galvanised field style gate would be set back from the highway. The internal driveway would be 'grasscrete' hard standing and given the siting of the stable block the driveway would not need to extend far into the site limiting its extent. Fencing is proposed to divide the site although this would be timber post and rail fencing which would allow views through it and would not be an overly dominant form of boundary treatment.
16. Where the stable block, access, driveway and fencing is proposed is undeveloped grassland and the proposals would introduce new built form where there currently is none into the Green Belt. This would affect the spatial aspect of the openness of the Green Belt. However, the change of use of the land would not affect the spatial aspect of the openness of the Green Belt as it would not involve new built form.
17. Whilst the site is bound by trees and hedges the stable block would be visible from Ivy Barn Lane from the access point as well as between the trees and hedges. Given the distance from the dual carriageway to the rear as well as the depth of the existing tree belt, the stable block would be relatively well enclosed from it. From further afield the siting of the dwellings either side of the site as well as the trees and hedges that bound Ivy Barn Lane and the undulating landscape would limit the viewpoints from where the stable block could be seen from. Additionally, the siting of the stable block close to the neighbouring dwelling and associated boundary treatment would partly screen it and would ensure most of the site would remain open.
18. The use of 'grasscrete' would allow grass to grow through it, maintaining the undeveloped appearance of most of the site. The proposed vehicular access would be bound material although given that it would be built at ground level it would have a very limited effect upon the visual aspect of openness. The proposed gate as well as the post and rail fencing would allow views through them limiting the enclosing effect of them upon the visual openness of the Green Belt.
19. The proposed equestrian use could lead to cars being parked on the site, but these would be transient which would ensure the long-term effect on the visual aspect of the openness of the Green Belt would be very limited. Despite this, the proposed stable block would be a relatively deep building alongside the other associated development that would be seen from several viewpoints close

- to the site and would subsequently affect the visual aspect of the openness of the Green Belt.
20. Overall, the proposal would have a modest effect on both the spatial and visual aspects of the openness of the Green Belt. However, this could be said for any new 'appropriate' facility for outdoor sport/recreation within the Green Belt. As such, 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 whilst preserving the openness of the Green Belt.
21. It is noted that the three stables are the size recommended by the British Horse Society. Whilst I have not been provided with the British Horse Society standards for stable blocks, I have nothing before me to indicate that the stables do not accord with it or that they are significantly larger than the standard size that is recommended. Additionally, a feed/tack room would be a reasonable requirement for a stable block and the size of it would appear to be reasonable for a stable block of this size. Accordingly, the size of the building would be reasonable for the keeping of three horses and the height of the single storey building would be limited.
22. The proposed access, gate, fencing and driveway would be limited and appropriate in scale for the proposed scheme. Furthermore, the modestly sized paddock would provide ample space for three horses to graze. Overall, the scale of the proposed building, associated engineering works and the change of use of the land would be appropriate for the proposed facility while respecting the need to preserve the openness of the Green Belt.
23. The proposed stable block and associated development would introduce new built form into the Green Belt. However, given the modest size and siting of the building and the proposed function of the development including the change of use of the land to a use commonly associated with the countryside, I am satisfied that the proposal would not result in a level of encroachment that would conflict with the purpose of the Green Belt to safeguard the countryside from encroachment. Accordingly, the proposal would not conflict with purpose c) of paragraph 143 of the Framework.
24. Additionally, given that the site is not located at the edge of a large built-up area it would not conflict with the purpose of the Green Belt to check the unrestricted sprawl of large built-up areas. As a result, the proposal would not conflict with purpose a) of paragraph 143 of the Framework.
25. It is not disputed by the parties that the proposal would not harm the other three purposes of the Green Belt set out in paragraph 143 of the Framework and based on the evidence before me I see no reason to disagree.
26. Reference has been made to a linked enforcement and planning appeal that was dismissed on the site for a similar development.²
27. The larger stable block in that appeal was proposed centrally and parallel with Ivy Barn Lane and thus would have appeared bulkier and more prominent compared to the proposed scheme which would be smaller and perpendicular to the road and thus not as prominent. Additionally, hardstanding was proposed across most of the width of the site on the road frontage whereas the

² Ref: APP/W1525/C/18/3218154 & APP/W1525/W/19/3228807

proposed driveway would be 'grasscrete' and would cover a smaller area. The 'grasscrete' would also soften the effect of this element of the scheme upon the area, compared to the dismissed appeal. Furthermore, close boarded fencing and a decorative gate was included in the previous appeal which would have a greater enclosing effect upon the openness of the Green Belt compared to the gate as well as the post and rail fencing proposed with this scheme. In light of this there are substantive differences between the two schemes which has led me to come to a different conclusion on this matter.

28. Consequently, the appropriate facility for outdoor sport and recreation as well as the material change of use of the land and the associated engineering operations would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. However, consideration still needs to be given to the effect of the engineering operations in the Green Belt on the character and appearance of the area.

Character and Appearance

29. Whilst LP Policy DM10 only refers to the effect of engineering operations in the Green Belt on the character and appearance of the area, the Council also identified other parts of the scheme that could affect it. Accordingly, I have dealt with these matters collectively.
30. The appeal site comprises a grassland field in the open countryside. Either side of the site are dwellings and opposite the site is an undeveloped field. Ivy Barn Lane is relatively narrow and bound by trees and hedges as well as timber post and rail fencing. Within the wider area there are various buildings sporadically located and in a variety of uses. The tree and hedge bound roads, together with the undeveloped fields and sporadically placed buildings provide an attractive landscape with a traditional rural character and appearance.
31. The previous Inspector identified the abrupt gap in the tree and hedge cover and the decorative design of the steel gates and posts, and close boarded timber fencing would combine to create an incongruous scheme of an effectively urban character.
32. In comparison, the proposal includes a simple gate which would allow views through it, and these are commonly used in rural areas including along Ivy Barn Lane. The limited height of the fencing would ensure it would not harmfully enclose the site. Nor would the timber fencing appear uncommon in the area given similar fencing has been installed close to the appeal site. Additionally, the use of post and rail fencing to subdivide the land would allow for views across the site ensuring it was viewed as a single planning unit. These types of fences between fields are common in the area and thus it would not appear discordant on the site.
33. It is evident that the area has undergone some changes since the previous appeal was determined and the trees and hedges along this section of Ivy Barn Lane are now more sporadic and do not create a continuous vegetative buffer between the roads and the land to the rear of them. Whilst this change in appearance may be related to the unauthorised works at the appeal site, this change was also evident elsewhere along the road. As such, gaps within these trees and hedges are common in the area.

34. The previous Inspector identified that the location and scale of the stable block, and the extensive use of hardstanding would be an intrusive feature.
35. Equestrian buildings are commonly located in countryside locations which normally provide appropriate space, facilities, grassland and environment for horses. Whilst travelling across the wider area, stable blocks and the associated grazing land were a common feature. As such, equestrian buildings generally do not appear out of character in the countryside and surrounding area. The proposed stable block would be designed in a typical equestrian stable style with a shallow pitched roof and would be timber built. The building would be modestly sized, and its design would be consistent with other rural development in the area. Whilst it would be visible from the road given its modest size, orientation and location close to the side boundary it would not appear prominent within the area.
36. Furthermore, the associated paraphernalia with the equestrian use would not be a discordant sight given that such uses are common within the surrounding area and are commonly located in rural areas such as the appeal site.
37. The use of 'grasscrete' for the hardstanding would soften the appearance of the scheme and help it to blend in with the undeveloped field behind it. Given the limited amount of hardstanding proposed and the undulating landscape there would be limited views of it from further afield. This, alongside the use of 'grasscrete', would ensure the hardstanding would not urbanise the appearance of the site.
38. Most of the site would remain undeveloped and this would retain space between development in the area. Furthermore, as already set out above equestrian uses are common in the countryside. As such, the proposed equestrian use of the site would be appropriate in this location and given that most of the site would remain undeveloped grassland, the appeal site would not appear significantly different to the existing agricultural use of the site. For the reasons given above the proposal would not detract from the traditional rural character and appearance of the site or the area.
39. Therefore, for the reasons set out the design, use and siting of the proposal would not harm the character or appearance of the area. Consequently, the proposal would accord with LP Policies S11 and DM10 insofar as they seek to protect countryside interest and ensure engineering operations in the Green Belt do not harm the character and appearance of the area.

Whether Inappropriate Development

40. For the reasons given above, the proposal would be an appropriate facility for outdoor sport/recreation and that, alongside the material change of use of the land and the engineering operations would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. The scheme would also not harm the character or appearance of the area. Therefore, I conclude that the proposal would not comprise inappropriate development in the Green Belt and would comply with Policies DM6, DM10 and S11 of the LP as well as paragraphs 154 b), 155 b) and 155 e) of the Framework, insofar as these relate to development in the Green Belt.

Other Matters

41. The previous linked appeals on this site were partly dismissed on highway safety grounds. However, speed survey data was provided in the Access Appraisal prepared by Journey Transport Planning which identified that the 85th percentile speeds at which vehicles were driven past the site was significantly below the speed limit for Ivy Barn Lane. The Access Appraisal identified that the required and achievable visibility splays for those speeds could be provided in both directions on land within control of the appellant or the Highway Authority. The Essex County Council Highways Officer did not object to the content of the speed survey and determined the application to be acceptable subject to conditions and based on the evidence before me I see no reason to disagree.
42. Issues were also identified in the previous linked appeals with regard to flood risk. A Flood Risk Assessment was submitted in support of the application and the Council did not refuse this scheme on flood risk grounds. The Flood Risk Assessment identified that parts of the site are located in Flood Zones 1 and 3. However, the stable block, access and driveway would be located wholly within Flood Zone 1. The proposal is for equestrian use and no habitable space is proposed as part of this scheme.
43. Within Flood Zones 2 and 3 the proposed use of the land for the grazing of horses would be considered as 'water compatible' within the Technical Guidance to the Framework. Other than the post and rail fencing which would not inhibit surface water drainage no development or engineering works are proposed on the parts of the site outside of Flood Zone 1. As such, neither the exception nor the sequential test are required as the development is water compatible and therefore appropriate.
44. Reference has also been drawn to other appeals by both parties for similar development³. The assessment of whether a proposal would be inappropriate development in the Green Belt and specifically that proposals effect on the openness of the Green Belt is a matter of planning judgement. Given that these appeals were not located on this site the circumstances around those cases are different to this scheme. The scale and siting of those buildings also differed substantively to the scheme before me. Those appeals in different areas have their own unique contexts, and as such have limited bearing on my consideration of this appeal. I have therefore assessed the appeal on its own merits based on the evidence before me and my own observations.
45. There is some dispute whether the matters related to the Enforcement Notice have been undertaken. However, in reaching my decision I have been concerned only with the planning merits of this case.

Conditions

46. I have considered the use of conditions in line with the guidance set out in the Planning Practice Guidance and in accordance with the tests set out in the Framework. Where I have made changes to the suggested conditions it has been in the interest of clarity and to ensure compatibility with the tests.

³ APP/W1525/W/22/3297603 & APP/P0240/W/23/3316421

47. Further to the statutory commencement condition [1] a condition requiring the development is carried out in accordance with the approved plans is necessary in the interest of certainty [2].
48. A condition requiring the surface materials are approved prior to their use is necessary in the interest of the character and appearance of the area, given the sites rural location [3].
49. The site is in the open countryside and as such it is necessary to ensure both soft and hard landscaping are approved and delivered on the site to preserve the character and appearance of the area [4]. To give the planting the opportunity to establish themselves I have included a requirement to ensure the planting is carried out in the first planting and seeding season and that within a 5-year period from the date of the decision any trees or plants that die are replaced in the interest of the character and appearance of the area. The main parties were given the opportunity to comment on this condition and they did not object.
50. Several conditions [5, 6, 8, 9, 10 and 11] were recommended by the Essex County Council Highways officer that were not suggested by the Council. However, these conditions were determined by the Highways Officer to be necessary to make the development acceptable from a highway safety perspective. This is also supported by the Access Appraisal which identified the reasoning behind the visibility displays and the access design. Accordingly, there is substantive evidence to support that these conditions are necessary in the interest of highway safety. The main parties were given the opportunity to comment on these conditions and they did not object.
51. I have revised the suggested wording for Condition 5 in the interest of clarity to include a timing clause for the details to be submitted for approval by the local planning authority before they were implemented.
52. Condition 6 has been revised to remove reference to the need to make arrangements for trees and hedges to be removed as the condition already requires that the vehicular visibility splays shall be retained free of obstruction at all times.
53. I have revised Conditions 8 and 9 to require the gate to be 6 metres wide and set back 10.6 metres from the back of the highway as drawings DR4 and DR5 in the Access Appraisal identified this depth was necessary to allow a 4x4 vehicle with a horsebox to access the site. This is necessary given the proposed use of the site. Condition 10 has also been revised to require no unbound material to be used for the vehicular access to accord with the depth as shown in the Access Appraisal.
54. The trees that bound the site are a positive feature of the character and appearance of the area and the submitted Arboricultural Impact Assessment identifies the recommendations and measures that should be undertaken during construction to ensure they are not harmed [12]. Accordingly, a condition requiring the development is carried out in accordance with it is necessary in the interest of the character and appearance of the area.
55. Similarly, the Preliminary Ecological Appraisal identified recommendations and mitigation measures that should be followed both during and after construction in the interest of preserving biodiversity and protecting protected species that

were identified to forage around the site [13]. The condition ensuring any external lighting is first approved by the local planning authority is necessary for similar reasons [7].

56. With regard to Conditions 12 and 13 I have removed the suggestion that minor variations may be agreed in writing by the local planning authority as this would allow changes to the scheme without public and/or member scrutiny via a variation of condition application.
57. The Ramblers Association state that footpath 226_17, Path (UM) has now been extinguished and as such the condition requiring that the route across the development site be maintained free and unobstructed is no longer necessary.

Conclusion

58. For the reasons given above, the proposal accords with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan TMA 941 10; Proposed Block Plan with Tree Constraints TMA 941 12; Proposed Elevations TMA 941 14; Proposed Floor Plan TMA 941 15; Proposed Fence Details TMA 941 16A; and Proposed Block Plan TMA 941 17.
- 3) Prior to their use, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) Prior to development taking place above slab level details of both hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. The landscaping details to be submitted shall include:
 - a) hard landscaping including pathways and driveways, other hard landscape features and materials;
 - b) existing trees, hedges or other soft features to be retained; and
 - c) planting plans including specifications of species, sizes, planting centres, number and percentage mix.

The approved landscaping works shall be carried out in accordance with the approved details before any part of the development is first brought into use. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the development hereby approved; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Prior to development taking place above slab level details of a vehicular turning facility shall be submitted to and approved in writing by the local planning authority. The approved turning facility shall be constructed prior to the first use of the development hereby permitted and shall be maintained free from obstruction at all times.
- 6) Prior to first use of the development hereby permitted, the new vehicular access, shown in principle in the Location Plan, drawing no. TMA 941 10, at its centre line shall be provided with a clear to ground visibility splay with dimensions of not less than 2.4 metres by 138 metres to the west and not less than 2.4 metres by 124 metres to the east, as measured from and along the nearside edge of the Ivy Barn Lane carriageway. Such vehicular visibility splays shall be retained free of any obstruction at all times.
- 7) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to the first use of the

development hereby permitted. The development shall be carried out in accordance with the approved details and retained as such thereafter.

- 8) Notwithstanding the details within the approved plans, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 6 metres and shall be provided with an appropriate vehicular crossing of the highway verge as shown in principle in the Block Plan, drawing no. TMA 941 17. The vehicular access shall be retained thereafter.
- 9) Notwithstanding the details within the approved plans, the gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 10.6 metres from the back edge of the highway verge. The gates shall be retained as such thereafter.
- 10) No unbound material shall be used in the surface treatment of the vehicular access within 10.6 metres of the highway boundary.
- 11) There shall be no discharge of surface water from the development onto the Highway.
- 12) In relation to tree protection, tree surgery and construction methods the development hereby permitted shall be carried out in accordance with the submitted Arboricultural Impact Assessment dated September 2022 by Open Spaces.
- 13) The development hereby permitted shall be carried out in accordance with the submitted Preliminary Ecological Appraisal dated September 2022 by Open Spaces