



Appeal Decision

Hearing held on 16 July 2024

Site visit made on 16 July 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/G5180/W/24/3338468

**Downe Livery Stables, High Elms Road, Downe, Orpington, Bromley
BR6 7JL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mark Aldridge and Downe Livery Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/22/03418/FULL1.
 - The development proposed is the erection of a two storey building providing cart barn and grooms accommodation above.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the hearing, the appellant provided historic maps of the appeal site. Further, the Council submitted several historic aerial photos, and national minimum and living wage rates. This information was not overly technical, and the parties present were able to address it. As such, I am satisfied that it is not prejudicial to any parties to accept this information and have regard to it in reaching my decision.
3. A draft National Planning Policy Framework (draft Framework) was published in July 2024 and is currently subject to consultation. As the proposed changes could affect the main issues in this case, the Council and the appellant were invited to make further comments and I have taken these into account.

Main Issues

4. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness and purposes of the Green Belt; and
 - whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

5. The site is located within the Green Belt as identified in the Council's Local Plan 2019 (the Local Plan). Policy 49 of the Local Plan and Policy G2 of the London Plan 2021 (the London Plan) are relevant. Together, these seek to protect the Green Belt from inappropriate development.
6. Policy 49 of the Local Plan states that the construction of new buildings is inappropriate in the Green Belt and sets out a closed list of exceptions to this which largely reflect those outlined in paragraph 154 of the current National Planning Policy Framework December 2023 (the Framework). At the hearing, the appellant and the Council agreed that the proposal does not fall within any of the exceptions in Policy 49 and would therefore be inappropriate development in the Green Belt.
7. I acknowledge that the draft Framework includes changes to the list of exceptions which could affect whether the current proposal should be regarded as inappropriate development in the Green Belt. Nevertheless, the draft Framework carries very little weight, and the proposal would be inappropriate development in the Green Belt when considered against the Framework.

Effect of the proposal on openness and purposes of the Green Belt

8. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the counterpart of urban sprawl and often connotes the absence of development. It is an open textured term and can have both spatial and visual dimensions.
9. The appeal site lies at a slightly higher level than the adjoining High Elms Road. Although there is evidence of a historically different arrangement and number of structures on the site, it currently comprises a livery yard with low timber stable and storage buildings, a large metal barn, arenas, paddocks and hardstanding. There are substantial tree belts along the western boundary and next to the road but there is a gap in the trees alongside the site frontage.
10. The proposed cart barn and grooms accommodation would be located towards the front of the site on part of a hardstanding area currently used for parking vehicles. Whilst much of the proposed structure would have an open undercroft, the introduction of a large, permanent building would lead to a moderate loss of spatial openness.
11. The proposed building would be higher and much closer to the road than the existing stables and barn. Although the structure would be set against a backdrop of large trees in views when travelling westbound along High Elms Road, it would be a prominent building, clearly visible from the street. The appellant suggests that roadside planting could screen the new accommodation. However, this could take some time to establish, could be removed, become damaged or diseased and may only provide robust screening in the spring and summer months. Thus, the increase in built development would also modestly harm visual openness.
12. One of the purposes of the Green Belt set out in paragraph 143 of the Framework is to assist in safeguarding the countryside from encroachment. The design and materials of the proposed building would reflect the North Kent

Downs vernacular. It would be positioned within an existing livery yard sandwiched between current buildings on the site and the road and primary school. Therefore, it would not cause encroachment into the countryside.

Other considerations

Current need for on-site accommodation

13. The site currently accommodates full livery for 12 horses provided by the manager and other staff, but at the hearing the appellant indicated that many stables are in poor condition and not fit for use. It was also outlined that some horse owners have chosen not to livery at the premises due to the condition of the stables and the lack of overnight supervision on the site. The type of horses presently liveried at the premises means that they are generally only stabled overnight in the colder months.
14. At the hearing, the appellant stated that provisions are currently in place for providing staffing on site overnight when necessary, including when horses are unwell and on fireworks night. I was referred to several instances in the past year where staff have had to regularly monitor and provide medication to sick horses 24 hours a day. There was no indication that any horses had come to harm through these arrangements, though I note the significant onus on the manager to ensure the welfare of the animals.
15. The facility is the only livery approved by the British Horse Society (BHS) in the Borough and in north west Kent. The appellant's statement confirms that it is not presently operating on a viable basis and the proposal could not be approved in this context.

Future need for on-site accommodation

16. There is an approved scheme¹ to provide accommodation for up to 26 horses in new stable buildings, with the existing barn retained, providing improved equestrian facilities in an area with a high level of horse ownership. The appeal proposal is for a cart barn with open and enclosed storage at ground level and a two-bedroom self-contained residential unit providing grooms accommodation above.
17. The appellant indicates that the dwelling is required for future workers for the approved scheme and that the proposal should be regarded in the context of the extant permission. The dwelling size is intended to provide flexibility to accommodate two grooms or an equestrian manager with a partner or family. As the dwelling would not accommodate an agricultural worker, Local Plan Policy 64 would not apply.
18. At the hearing, the appellant and the Council agreed that the proposed grooms accommodation would be an isolated dwelling in the countryside. Paragraph 84 of the Framework seeks to avoid the development of such homes unless various circumstances apply, including that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Planning Practice Guidance sets out considerations that may

¹ Under planning application ref DC/22/03417/FULL1 granted by the Council in September 2023 – "the approved scheme/extant permission"

- be relevant when assessing the need for isolated homes in the countryside for essential rural workers².
19. The extant permission has not yet been implemented, but work is underway in relation to the discharge of conditions. The approved scheme would accommodate significantly more horses than at present, which could include competition horses requiring overnight stabling year-round. As a result, there would be an increased risk of horses becoming cast or experiencing potentially fatal illnesses, such as severe colic. There would also be a risk of more horses being trapped in the event of a fire. In addition, there would be an increased need for staff to be present out of hours to monitor and provide medication to horses in poor health.
 20. There are concerns about the potential for theft of horses and expensive equipment, and at the hearing the appellant alluded to recent increases in thefts in the area and a break in at the site in 2012. There is no evidence of any attempts to steal horses.
 21. The proposed dwelling would mean that an equestrian worker would be within sight and sound of the horses overnight and, as such would quickly be made aware and easily able to attend when horses become cast or unwell. The worker would also be present in case of the activation of security lights and a hard-wired monitoring system could be used rather than a security system reliant on an internet signal. It is indicated that an on-site dwelling would encourage potential clients to livery valuable horses at the stables once the site is redeveloped. At the hearing, the appellant stated that the long-term viability of the approved scheme is dependent on the provision of the grooms accommodation, and the cost of this is included in the Business Plan.
 22. However, until the approved scheme is implemented, based on the evidence before me, I do not consider that risks to horse welfare and security would be sufficiently frequent and severe to justify the need for a worker to live on site to respond to incidents during night-time hours. In the absence of constant overnight supervision on the site, some horse owners may choose not to livery their horses at the premises once the approved scheme has been implemented. Nevertheless, given the limited BHS approved livery facilities locally and the high levels of horse ownership, I do not consider that the approved scheme would be unable to successfully operate without on-site living accommodation.
 23. I acknowledge that the area experiences frequent power cuts and a slow internet connection and that remote audio and video monitoring was found not to address welfare issues in an appeal case in Rushcliffe Borough. The premises currently uses CCTV and alarms to monitor the welfare of horses and provide security to the site. In this case, I see no reason why such technological systems could not continue to be used following implementation of the approved scheme.
 24. Even if a case could be made, there is no mechanism before me on how the current proposal could be linked to the implementation of the extant permission. At the hearing, the appellant indicated that the approved scheme would be built out on a phased basis to firstly accommodate the existing liveried horses and that work is currently underway relating to the discharge of conditions on the extant permission. A condition prohibiting implementation of

² Planning Practice Guidance Paragraph: 010 Reference ID: 67-010-20190722

the proposed development until the approved scheme is implemented and fully occupied would not be appropriate as there is no certainty that this would occur within the time limit of any permission.

Staff Recruitment

25. The approved scheme would generate a need for additional staff, with the indication being that these are typically younger people employed on the national living or minimum wage who may not have access to a car nor be able to drive. However, the appellant and the Council agree that the appeal site has a low PTAL rating of 1a which means that it has relatively poor access to public transport. Moreover, the high cost of local rental accommodation could be out of reach to equestrian workers, and issues of affordability in such cases have been recognised in appeal decisions for schemes in Rushcliffe Borough and Kesteven District. In these circumstances, I acknowledge that the provision of a dwelling on-site could help to attract staff to work at the livery business. I further note that access to the site from outside Downe is difficult without a car and on occasions the lanes are impassable due to the weather or fallen tree branches.
26. However, the current staff live in villages and towns nearby and access the site by car. This point undermines the case being made that the proposal is required to attract staff. Furthermore, there is little evidence that horses have been harmed due to staff not being able to access the site or that it has been difficult to employ local people to work at the premises. On this basis, I am not satisfied that any additional workers needed for the approved scheme could not be drawn from those living in the locality with access to a car.
27. I note the examples of appeal decisions in Tandridge District and at Newton Abbott where Inspectors considered the need for on-site living accommodation for equestrian businesses. As these related to a much smaller operation than the approved unimplemented scheme or the need for a temporary dwelling given the circumstances of a named person, they are not comparable to the current proposal for a permanent dwelling for an equestrian worker.
28. Therefore, it has not been demonstrated that there is an essential need for a dwelling for an equestrian worker to live permanently at the appeal site in the Green Belt.

Contribution to housing land supply

29. The Framework seeks to boost the housing supply, whilst supporting development which makes efficient use of land. The Council cannot currently demonstrate a five-year housing land supply required by the Framework.
30. The Council's current published position, from November 2021, indicates a 3.99 year supply and a subsequent appeal decision from August 2023³ concluded that the Council had a 3.38 year supply. Further, as the Housing Delivery Test (HDT) results from 2022 indicate that housing delivery fell below 85% over the HDT period, a buffer of 20% now needs to be applied. When this buffer is applied to the appeal derived figure, the Council has a 2.96 year supply.
31. The proposal would make a contribution of an additional home to the supply of housing, making better use of land. It would contribute towards London

³ Appeal Ref: APP/G5180/W/23/3315293

Borough of Bromley's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute moderate weight to this benefit.

Other Matters

32. There are trees within the site and on other land owned by the appellant which are protected by a Tree Preservation Order. At the hearing, the appellant outlined issues to the welfare of horses caused by falling tree branches and sycamore seedlings. The appeal proposal would not affect protected trees and any works to them would require separate consent from the Council.
33. The proposed building would be sited in the same location as the cycle parking and refuse storage for the approved scheme. At the hearing, the appellant confirmed that cycle and refuse storage required for the proposed equestrian facilities is included in the proposed development which, if allowed, would require a variation to the extant permission.
34. The Council did not find harm or development plan conflict in relation to several other matters, including living conditions, design, density of development, energy efficiency, ecology, flood risk and drainage, parking, heritage assets, and accessible housing provision. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
35. The reason for refusal refers to Policy 52 of the Local Plan relating to replacement residential dwellings in the Green Belt. The Council confirms that this does not apply to the proposed development.
36. At the hearing, the appellant expressed dissatisfaction with the time the Council had taken to determine the application. However, this is a matter between those parties, and it does not in this instance have any bearing on my determination of this appeal.

Whether there would be Very Special Circumstances

37. Policy 49 of the Local Plan states that within the Green Belt permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. London Plan Policy G2 indicates that the Green Belt should be protected from inappropriate development and that proposals that would harm the Green Belt should be refused except where very special circumstances exist.
38. The Local and London Plan policies accord with the Framework which also outlines that inappropriate development is, by definition, harmful to the Green Belt. Both the Local Plan and the Framework set out that very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
39. The proposed scheme would be inappropriate development in the Green Belt and would not preserve its openness. The Framework indicates that substantial weight should be given to the harm caused to the Green Belt.
40. I give moderate weight to the provision of an additional home, but I have not found an essential need for a permanent dwelling to accommodate an

equestrian worker on the site. Therefore, the other considerations would not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist. As such, it would be contrary to Policy 49 of the Local Plan and Policy G2 of the London Plan and would conflict with the Framework.

Planning Balance and Conclusion

41. Paragraph 11(d) of the Framework is engaged as the Council is currently unable to demonstrate a five-year housing land supply. In such circumstances, this states that development should be approved unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. In this appeal, the application of the Framework's Green Belt policies provides a clear reason to refuse the development. The proposal would also be contrary to Policy 49 of the Local Plan and Policy G2 of the London Plan.
42. Consequently, the proposal conflicts with the development plan and the material considerations, including the Framework and the very special circumstances test therein, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

A Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mark Aldridge	Owner of Downe Livery Ltd
Mrs Gemma Brackstone	Manager of Downe Livery Ltd
Ms Fiona McDaniel	McDaniel Woolf Architects
Ms Sally-Ann Tinsley	Equine Commercial-Legal
Mr Richard Woolf	McDaniel Woolf Architects

FOR THE LOCAL PLANNING AUTHORITY

Mr Robin Evans	Council of the London Borough of Bromley
Miss Catherine Lockton	Council of the London Borough of Bromley

INTERESTED PARTIES:

Mr Chris Rumble	Local Resident
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