



Appeal Decision

Site visit made on 25 November 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2025

Appeal Ref: APP/R1038/W/24/3348950

Land to rear of Fox and Hounds, Marsh Lane, Sheffield S21 5RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Donna Stoker against the decision of North East Derbyshire District Council.
 - The application Ref 23/00842/FL was approved on 28 June 2024 and planning permission was granted subject to conditions.
 - The development permitted is to regularise stables, new manege and access track (revised scheme of 22/00948/FL).
 - The conditions in dispute are Nos 3 and 7 which state that:
3: *"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."*
7: *"Within 6 months of date of this permission, a Biodiversity Enhancement Plan, along with a timetable for its implementation, shall be submitted to and be approved in writing by the Local Planning Authority. The Plan shall clearly show the positions, specifications and numbers of features, which will include (but are not limited to) the following:*
 - universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
 - integrated/external bat boxes.
 - summary of ecologically beneficial landscaping including details of native hedgerow planting (full details to be provided in Landscape Plans).*The agreed scheme shall then be implemented in accordance with the approved details and be retained as such thereafter."*
 - The reason given for the conditions are:
3: *"in the interests of preserving the openness of the North East Derbyshire Green Belt and the character and appearance of the countryside."*
7: *"in the interests of biodiversity mitigation/enhancement."*
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Decision

1. The appeal is allowed and the planning permission Ref 23/00842/FL for regularise stables, new manege and access track (revised scheme of 22/00948/FL) at Land to rear of Fox and Hounds, Marsh Lane, Sheffield S21 5RH granted on 28 June 2024 by North East Derbyshire District Council, is varied by deleting condition No 3 and No 7 and substituting condition No 7 for the following condition:

7) Within 12 months of date of this permission, a Biodiversity Enhancement Plan, along with a timetable for its implementation, shall be submitted to and be approved in writing by the Local Planning Authority. The Plan shall clearly show the positions, specifications and numbers of features, which will include (but are not limited to) the following:

- universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
- integrated/external bat boxes.
- summary of ecologically beneficial landscaping including details of native hedgerow planting (full details to be provided in Landscape Plans).

The agreed scheme shall then be implemented in accordance with the approved details and be retained as such thereafter.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. I have considered the sections of the Framework most relevant to the conditions in dispute. There have been no substantial changes to chapter 15 conserving and enhancing the natural environment. There have been a number of changes to chapter 13, protecting Green Belt Land. However, the fundamental aim, essential characteristics and purposes of the Green Belt have not changed, therefore considering the substance of condition 3 and the reason for its imposition, I consider there would be no prejudice to any party by considering the development against the relevant sections in the revised Framework.

Background and Main Issues

3. The appellant seeks the removal of condition No 3 and No 7 from the approved planning permission Ref 23/00842/FL. The main issues are:
 - whether condition 3 is reasonable and necessary in the interests of the character and appearance of the countryside and preserving the openness of the Green Belt; and
 - whether condition 7 is reasonable and necessary in the interests of biodiversity.

Reasons

Condition 3

4. The original application was for regularising stables, a new manege and an access track. The appellant argues that the condition seeks to control the use of land that is already established. The Council accepts that the land has been previously used for equestrian purposes but argues that the lawfulness of this use was never formally regularised. Whilst I acknowledge this, the Council have granted permission for the stables and manege which are equestrian in their very nature and therefore in effect establishes the use of the land as equestrian, albeit not formally.
5. Whilst the appeal site is located in the Green Belt and countryside, it occupies an elevated position in the far corner of a field, set against a backdrop of mature vegetation and the Fox and Hounds pub, carpark and play area with various equipment. The use of the land to park a horsebox is ancillary to the functional use of the land and would not appear unusual in an equestrian and countryside setting, along with any associated paraphernalia that may be

stored outside. Furthermore, as the horse box is a moveable feature, it would not have a permanent presence in the Green Belt, thus I find its impact on the openness of the Green Belt would be limited.

6. I acknowledge that unrestricted storage of vehicles, horseboxes and items outside could have the potential to erode the openness of the Green Belt and have an adverse effect on the character and appearance of the countryside. However, given the locational context set out above, the modest size of the stables and the submitted information including aerial photography, there is limited compelling evidence to suggest that multiple horse boxes, vehicles and excessive items outside, have been stored or would be stored at the appeal site. Even if such a situation were to occur and concerns were raised around untidy land, there are other mechanisms by which this could be addressed.
7. Based on the information before me, I consider that condition 3 is not reasonable or necessary, and the deletion of the condition would not have an adverse effect on the character and appearance of the countryside or the openness of the Green Belt in this location. It would therefore not be at odds with Policy SS10 of the North East Derbyshire Local Plan 2014-2034 (2021) (LP), which amongst other matters, seeks to preserve openness in the Green Belt, nor would it conflict with any of the five purposes of the Green Belt set out in the Framework. It would also not conflict with Policy SS9 which seeks compliance with Policy SS10 and for proposals to respect the character of the landscape. There would also be no conflict with Policy SDC3 of the LP which requires proposals to not harm, amongst other matters, the character and quality of the landscape.

Condition 7

8. The appellant contends that the six month timescale for the implementation of this condition is unreasonable considering that the planning permission has three years to be implemented. They also state that the removal of one of the stable bays proposed as part of the original application is also a requirement of an enforcement notice. Given this, the appellant considers that the removal of the bay would not necessarily result in the implementation of the permission, thus the appellant considers that the condition lacks precision.
9. I disagree with the above assertion. The condition only requires a biodiversity enhancement plan and implementation timetable to be submitted within a six month timeframe. It does not require the enhancement features to be implemented within six months. I consider that the six month timescale for the biodiversity enhancement plan and implementation timetable is a reasonable timescale in this regard.
10. Moreover, regardless of whether or not the removal of one of the stable bays would result in the implementation of the permission, the actual wording of the condition requires the forementioned details to be submitted within six months of the date of the permission, not within six months of implementing or commencing the development. I find that the condition is precise in this regard. Given that the original application partly related to the retention of an existing building, it is reasonable to require the enhancement plan and timetable within a prescribed timeframe, rather than prior to commencement of the development.

11. The appellant contends that the officer report does not provide any justification as to why the condition is required or how it is related to the development. I have reviewed the officer report. There is no requirement for the officer report to contain the conditions and their reason for inclusion as this is set out in the decision notice. The officer report does make reference to a consultation response from Derbyshire Wildlife Trust (DWT) which raised no objections, subject to conditions. Whilst it would have been useful to have had the consultation response within the officer report, their comments would nevertheless have been accessible in some form to the appellant and it has not been put to me that these comments were not seen.
12. I have reviewed Policy SDC4 of the LP which has been cited within the officer report as a relevant policy consideration. It seeks, amongst other matters, to increase the quantity and quality of biodiversity by promoting the qualitative enhancement of all sites of biodiversity and geodiversity value. However, DWT in their consultation response, have stated that the site is low-quality grassland and also confirm that that no notable habitats or protected species have been recorded on or adjacent to the site. I therefore find that it has not been demonstrated that Policy SDC4 is applicable.
13. Notwithstanding the above, and noting that Biodiversity Net Gain requirements may not have been adopted at the time the application was submitted, both the previous and current version of the Framework did and does seek to ensure that planning decisions should contribute to and enhance the natural environment, by providing net gains for biodiversity. Therefore, although the site is low-quality grassland, it is a reasonable requirement to offset the minor loss of this grassland with planting and other enhancement measures in order to achieve a net gain in biodiversity, considering the requirements of the Framework.
14. Considering all the above, I find that the disputed condition is reasonable and necessary in the interests of biodiversity. Without the disputed condition it would not accord with the aims of the Framework, discussed above.
15. Whilst my earlier findings set out that the six month timeframe from the date of the permission was a reasonable period in which to submit the required documentation, considering that the condition has been in dispute, a six month timeframe would mean that information would have to be submitted by late December. Given this date has already passed, the appellant would automatically not be in compliance with the condition. After raising this matter with the main parties and receiving feedback, I will delete condition 7 and impose a new condition requiring the information to be submitted within 12 months of the date of the permission, essentially giving the appellant approximately another six months in which to submit the documentation. The new condition remains the same as the old condition 7 in all other regards.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and I will vary the original permission by deleting conditions 3 and 7 and substitute condition 7 for a new condition.

T Bennett

INSPECTOR