



Appeal Decision

Site visit made on 18 December 2024

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2025

Appeal Ref: APP/Y3615/W/24/3344351

Land to the south of Gole Road and west of The Willows, Gole Road, Pirbright GU24 0PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Karl Kavanagh against the decision of Guildford Borough Council.
 - The application Ref is 22/P/01277.
 - The development proposed is described as SITING OF STABLES AND USE OF LAND FOR THE GRAZING OF HORSES AND RETENTION OF ASSOCIATED DRAINAGE WORKS.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development description in the banner heading is from the application and appeal forms. I am informed the scheme was amended during the application process, reflected in a revised plan. The Council's decision is based upon the development being for the change of use of land for the keeping of horses, retention of existing stable block and associated drainage, with the erection of a storage shed, gates, boundary wall and associated hardstanding.
3. Though the appeal form does not confirm it was agreed to amend the description, the appellant has not disputed the Council's confirmation the scheme was amended. The appellant's case addresses the amended scheme. It is also clear that interested parties were consulted upon the amended description and scheme during the application determination process. Therefore, I have assessed the appeal based upon the amended scheme.
4. The appellant's appeal form and appeal evidence state the description of what was proposed is only partly accurate. It explains the appellant's wider business over other land and includes horse and other animal breeding and rearing. Therefore, this scheme should not be regarded as solely equestrian, but agricultural. It also states the appellant is content to retain existing close boarded fencing and gates, which appear to have been recently installed.
5. The wooden fencing I saw at my visit is not what is proposed on the submitted plans and would change the description of a prominent aspect of the development. The use of the land for keeping of other animals and an agricultural use would also change the description of the development and alter the use. They would amount to a fundamental change to what was proposed and the description upon which interested parties were consulted.

6. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2024 states the appeal process should not be used to evolve a scheme, and what is considered by the Inspector should be essentially the same as was considered by the Council and interested people's views sought. Given the fundamental nature of the changes I have not considered the appeal based upon a development description with appellant's suggested changes.
7. Part of the Appellant's appeal case is that some of what is proposed is not development or would be permitted development. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether a development requires express planning permission. However, I shall consider the evidence as to whether permission is required for the appeal development, so far as it is material to this appeal. If the appellant wishes to ascertain whether a development is/would be lawful, they may make an application under section 191 or 192 of the Act.
8. At my visit amongst other things there was an access, gates, hardstanding, two stable buildings and field drainage similar to those on submitted plans, so I have taken the development to have commenced. I noted further fencing, other structures, and livestock other than horses. These are not what was proposed or shown on the plans before me. My assessment is confined to what is described in the application, decision notice, and plans.
9. There were two appeal decisions¹ following the issue of an enforcement notice and the refusal of an application for a certificate of lawful use or development. The decisions relate to some elements of the appeal scheme before me. I have noted the findings of the Inspector for those previous appeals, however, I am not bound by them, and I have considered this appeal on its own merits.

Main Issues

10. The main issues are:
 - whether or not the development constitutes inappropriate development within the Green Belt and its effects upon the openness of the Green Belt;
 - the effect of the development upon the character and appearance of the area;
 - the effect of the development upon the living conditions of the occupiers of The Willows, with particular reference to noise and disturbance; and,
 - if the development would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development.

Reasons

Green Belt

11. Paragraph 142 of the National Planning Policy Framework (2024) (the Framework) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and

¹ Ref. APP/Y3615/C/21/3281599 and APP/Y3615/X/21/3281608.

should not be approved except in very special circumstances. Paragraph 154 states the construction of new buildings should be regarded as inappropriate development, subject to certain exceptions. It also states certain other forms of development may not be inappropriate, provided they preserve openness and do not conflict with the purposes of including land within the Green Belt.

12. Policy P2 of the Guildford Borough Local Plan: strategy and sites (2019) (the LPSS) states that the Green Belt will be protected against inappropriate development in accordance with the Framework. Constructing new buildings in the Green Belt constitutes inappropriate development, unless within the list of exceptions in the Framework. Certain other forms of development are also considered not inappropriate, provided they preserve its openness and do not conflict with the purposes of including land within it, listed in the Framework.
13. An exception at Framework paragraph 154a) is buildings for agriculture and forestry. Section 55(2)(e) of the 1990 Act states that the use of land for agriculture is not development. Whether based upon the initial description or the revised description, this appeal development proposes the use of land for grazing, or keeping, of horses. Potentially, this could constitute an agricultural use if they are for an agricultural purpose. However, it is not stated that the purpose of keeping horses on the land is for farming the land.
14. The buildings indicate there would be stabling for at least four horses. The appeal site is approximately 1.16 hectares, which would appear very small for four horses for an agricultural purpose on the land. The grazing ratios for an agricultural use are not explained in this context. It is also unclear why a sizeable shed was necessary for an agricultural purpose, if the use is to be only agricultural. The level of stabling and the need for the sizeable storage shed for equipment, imported feed and bedding for horses, strongly indicates the buildings are to be regarded as an equestrian use, not an agricultural use.
15. The appellant's appeal submissions subsequently indicate animals may be kept, bred and reared. The buildings are justified with reference to this, in terms of animal welfare. The Highways Appeal Statement (HAS) states the development would result in 5 car and light van movements each way per day and limited HGV deliveries and a lesser number of veterinary visits. This level of movements and the appellant's submissions all point towards this proposal and the buildings are not mainly or solely for an agricultural use, but are either an equine and/or a form of recreational use.
16. As a matter of judgement based upon the evidence before me, the development would not fall within the exception under Framework paragraph 154a). On this basis and having regard to the findings of the Inspector for the certificate of lawful use or development, there is no substantive evidence to lead me to the view that much if any of the proposed built development would benefit from permitted development rights.
17. Were I to agree the development could be of the type within the exceptions in Framework paragraphs 154b) and 154h) ii) or v), the facilities are required to preserve the openness of the Green Belt and not to conflict with the purposes of including land within it. The buildings might be regarded as quite limited in size, be below the level of the nearby highway and quite close to the boundary with The Willows. Nevertheless, they propose the erection of buildings and a marked scale, bulk and massing of buildings where there were previously none.

18. The buildings result in a limited adverse effect upon the spatial openness of the Green Belt. Their form and location towards the edge of the site, and their partial containment from the wider landscape by The Willows and trees, means they have some limited adverse effect upon the visual openness of the Green Belt. This is visible from a significant length of Gole Road in front of the appeal site. Therefore, they cannot meet the exceptions at paragraphs 154b) and h)ii) or v) of the Framework.
19. The walling and gates and hardstanding as indicated on the plan with associated vehicular use, would result in a significantly greater spatial extent of development and associated harm to spatial openness. They would also significantly increase the harm to the visual openness of the Green Belt, particularly the quite solid and opaque appearance, visible primarily from above Gole Road. These elements of the scheme also result in a significant encroachment of built development into the countryside. Therefore, they cannot meet the exceptions at 154b) and h)ii) or v) of the Framework.
20. Reference is made to the site being brownfield, but with little further advancement of the development constituting an exception under paragraph 154g). The definition of previously developed (brownfield) land in the Framework Glossary defines it as comprising lawfully developed land that is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).
21. There is no substantive evidence showing the extent of lawful permanent structures or fixed surfaces with an explanation to support that the appeal site would be regarded as having been within the curtilage of such a structure or surface. Therefore, it is not demonstrated the development meets the exception at Framework paragraph 154g).
22. Paragraph 155 of the Framework states that other development in the Green Belt should also not be regarded as inappropriate where three criteria are met. Though I have given the opportunity to comment upon the revised Framework, neither party has made a substantive case in this regard. However, there is no demonstration of (b) a demonstrable unmet need for stables or horse grazing land. Therefore, even were I to consider the development could meet (a) and (c) it does not pass all the required tests, so cannot meet the exception at paragraph 155.
23. For the reasons set out above, the development constitutes inappropriate development in the Green Belt as defined in the Framework and Policy P2 of the LPSS, which would be, by definition, harmful to the Green Belt.

Character and appearance

24. The character and appearance of the area has some degree of contrast with some built development such as the railway embankment to the north and the linear row of dwellings to the east of the appeal site. However, the tree cover on the northern side of Gole Road, and the wider largely open landscape to the south and west, means the area retains quite a verdant and rural feel.
25. The pre-existing weldmesh fencing along Gole Road is quite transparent and light weight in its appearance and permits views across the site and wider landscape. The status of the post and rail fencing, and the closed board

fencing is unclear. Whilst it introduces some segregation and enclosure, even if it were to remain, the appeal site still makes some degree of contribution to the open, verdant and rural character and appearance of the area.

26. The accesses serving the nearby dwellings are generally of a limited and domestic scale, with the front boundary treatments being low level walls, fencing and hedging. Either side of The Willows, fencing and a set of gates differ because are a limited amount higher, but still appear markedly lower than the proposed new wall and gates.
27. The plans indicate a large formal access, a significantly sized area of hardstanding and a significant extent of solid 2m high walling. The hardstanding constitutes a large, urbanising and harmful addition over land which I understand was previously largely undeveloped. The gates and walling would urbanise the appeal site and their scale would be significantly and stridently greater than the frontages of the nearby properties to the east. Their solid and somewhat dominant appearance would also be significantly and harmfully at odds with the open weldmesh fencing to the west of them.
28. I could see no other such similar combination of arrangements within the vicinity of the appeal site. I cannot conclude these aspects of the appeal scheme can be regarded as sensitively designed or reflective of the key positive attributes or land management guidelines for the Wooded and Settled Heath landscape character area referred to by the appellant. The harm would be visible from a significant length of Gole Road in front of the appeal site.
29. Even were landscaping to be more comprehensive than indicated, including in terms of site coverage, and comprise sympathetic native species, it may take a significant number of years to grow to meaningfully mitigate the effects of the development. Even then it would not mitigate all the harm. Having regard to the scope for other suitably worded conditions, I am not satisfied the harm could be fully mitigated within the context of this appeal scheme.
30. For the reasons set out above, the walling, gates and hardstanding would be harmful to the character and appearance of the area. It would conflict with Policy D1 of the LPSS and Policies E10 and D4 of the Guildford Borough Development Management Policies (2023) (the DMP). In combination and amongst other things these require that development achieves a high-quality design that responds to the local character of the area. It would also conflict with paragraph 135c) of the Framework, which has similar objectives.

Living conditions

31. The operational development is and would be within close proximity to The Willows to the east. While my site visit can only represent a brief snapshot in time, on a weekday during the day, there was a moderate flow of traffic along Gole Road. Together with occasional trains on the embankment, these were the dominant source of background noise over the duration of the visit, resulting in a moderate level of noise despite the rural location. There is no substantive evidence that would lead me to the view that what I observed was untypical at this time.
32. The submissions suggest the golf course use is abandoned and not a fall-back position or baseline against which to assess additional noise. The HAS indicates there may limited car and light van movements each way per day,

limited HGV deliveries and less veterinary visits. There is little substantive evidence in respect of the likely other activities and noise sources that would result from the appeal development.

33. There would be likely to be some manoeuvring in low gears by vehicles delivering materials or collecting and delivering animals. There may also be some other noise associated with animal husbandry and site maintenance, although it is not clear from either party's case that this would be inherently noisy. It is also not clear that animals will habitually kick the stables.
34. I see no reason why activities such as deliveries and collections, could not be subject of a suitably worded planning condition restricting them to daytime hours. Were this to be the case, and in the absence of substantive evidence demonstrating to the contrary, while the occupiers of The Willows would experience some increased noise and disturbance, in context it is likely to be of a limited level, and not of a level likely to result in harmful living conditions.
35. For the reasons set out above, based upon the limited evidence provided, I conclude the development would not result in harmful living conditions to the occupiers of The Willows with particular reference to noise and disturbance. On this basis, it would not conflict with Policy D5 of the DMP, which states that development is required to avoid having an unacceptable impact on the living environment of existing residential properties in terms of noise. It would also not conflict with similar aims in the Framework in this regard.

Other considerations

36. The development may result in some limited temporary economic benefits during construction, and minor on-going benefits to the rural economy once complete. There would be some benefits to rare animal breeding, welfare, husbandry, security, and the appellant's operations, but it is not demonstrated it is necessary for a lawful use of the land. There is also no demonstration of a shortage of such facilities, so this limits the weight to be given to this.
37. A landscaping scheme could be suitably designed to result in some limited overall landscape and biodiversity benefits in the longer term. There might be some limited drainage benefits because of the drainage infrastructure. However, there is no substantive evidence to suggest these benefits would be anything other than limited benefits, attracting limited weight.
38. The HAS states the previous golf course use generated in the region of 100 car and other light vehicle movements each way per day. However, it is unclear if these used an access on the appeal site. Moreover, the submissions by the Council suggest this use is abandoned and the site has a nil use. In this context I do not regard it as being demonstrated that the access arrangement would result in a significant highway benefit, having regard to the lawful use of the land. This matter attracts limited weight.
39. While I do not have the full details and plans relating to appeal decision letter Ref. APP/Z4718/W/22/3304932, that development included the removal of a building immune from enforcement action, resulted in a seemingly modest increase in the building size, a modest increase in hard surfaced area, and is in a different Local Authority area with a different development plan. Therefore, the circumstances appear to be significantly different to those of this appeal development, so that decision letter attracts limited weight.

Other Matters

40. In its report, the Council referred to an increased potential for odour, although odour is not specifically referenced in the reasons for refusal. As it is not put to me the development would result in an overall benefit in respect of odour, I treat it as a neutral matter. However, were I to have otherwise been minded to allow this appeal, this is a matter about which I would have sought further views from the main parties to understand any effects, and if possible and necessary, mitigation measures.

Planning & Green Belt Balance

41. The development would be inappropriate development that would, by definition, harm the Green Belt, would result in harm to the openness of the Green Belt and conflict with the purposes of including land within it. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. In addition to this, it would be harmful to the character and appearance of the area. These matters attract substantial weight against the appeal development.
42. The factors and benefits set out by the appellant attract limited weight in favour of the appeal development. In consequence, the benefits do not clearly outweigh the harm to the Green Belt and the character and appearance of the area. Therefore, the very special circumstances necessary to justify the development do not exist, so the development conflicts with Framework paragraphs 142, 143 and 153, and Policy P2 of the LPSS, which seek to preserve Green Belt openness and protect it from inappropriate development, unless very special circumstances exist.

Conclusion

43. The development would be contrary to the development plan read as a whole, and the Framework read as a whole. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR