



Appeal Decision

Site visit made on 19 July 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2018

Appeal Ref: **APP/X1925/W/18/3198084**

Friends Green Farm, New Yard, Weston, Hitchin, Hertfordshire SG4 7BU

- The appeal is 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 a previous planning permission was granted.
 - The appeal is made by Mr Luke Papworth against the decision of North Hertfordshire District Council.
 - The application Ref 17/04137/S73 was refused by notice dated 13 March 2018.
 - The application sought planning permission for the erection of stable block for 12 stables; garage workshop and feed store/tack rooms following demolition of existing stables without complying with a condition attached to planning permission Ref 15/02582/1, dated 28 April 2016.
 - The condition in dispute is No 6 which states that: *'The development hereby permitted shall not be brought into use until the existing stables are removed from the site, or within another appropriate time period as agreed in writing by the Local Planning Authority.'*
 - The reason given for the condition is: To ensure the development has an acceptable impact on the character and appearance of the area.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of stable block for 12 stables; garage workshop and feed store/tack rooms at Friends Green Farm, New Yard, Weston, Hitchin, Hertfordshire SG4 7BU in accordance with application Ref 17/04137/S73 without compliance with condition no 6 previously imposed on planning permission 15/02582/1, dated 28 April 2016, subject to the conditions set out in the attached Schedule.

Background and Main Issue

2. The condition at issue, imposed on planning permission ref 15/02582/1, requiring for the demolition of the existing stable buildings, appears to be as a direct result of the proposal itself, as submitted to the Council. This is borne out by the Council's case report for the application as, save for noting the applicant's intention in this regard, it makes no mention or analysis of the demolition aspect and the need for such, particularly with reference to the Green Belt and its openness. Further, the report says that the provision of buildings for outdoor sport and recreation is acceptable in the Green Belt and that the proposal would not conflict with any of the cited purposes of the Green Belt.
3. Given the above, and from the content of the original case report, the demolition of the stables was not considered pivotal at the time to the

application's success. However, the approach taken at that time is at odds with the case report relating to the application currently at appeal whereby it is indicated that the proposed stables were looked upon favourably in part due to the demolition of the existing stables.

4. Since planning permission was granted in 2016 I understand that the then applicant has sold off the original application site into a number of plots, and the area of the site where the still extant planning permission allows for the new stables to be constructed is now in separate ownership from the piece of land upon which the existing stables sit. As such, the appellant now has no control over their demolition and cannot thereby comply with the requirements of the condition.
5. The main issue, given the context described above, is whether the condition at issue is reasonable and necessary in the interests of protecting the Green Belt, the effect on its openness and also encroachment into the countryside.

Reasons

6. As the Council's original case report indicated the provision of facilities for outdoor sport and recreation in the Green Belt, so long as its openness is preserved, is considered an exception to inappropriate development therein. This is referred to in paragraph 145 of the National Planning Policy Framework (the Framework). At my site visit I noted that the area of the site where the new stables would be erected are significantly distanced from the existing stables. These are, in fact, more closely associated with, and in near proximity to, the east and west barn buildings.
7. In illustration, separate planning permissions, granted in 2014, for the conversion of both barns for residential use were also conditioned to require the demolition of the associated outbuildings which included the existing stables. It was not fully clear to me whether these permissions have now expired, unimplemented, but I note that a fresh application for a similar conversion of the west barn is currently under consideration by the Council. In the event that planning permission is again granted for the barn's residential use then it would be open again for the Council to conditionally require for the demolition of the existing stables.
8. The wording of the condition is also important in that it allows for the stable block to be built but not brought into use until the existing stables are demolished and removed from the site. On this basis there appears to be no objection to the physical aspect of the proposal, only the implications of its use. Nonetheless, this is not an inappropriate use in the Green Belt for the purposes of the Framework, and the appellant mentions that the use would merely allow for the transfer of the horses from the existing stables to the new block.
9. I note that the stated reason for the condition's imposition on the decision notice makes no mention of the Green Belt. Given the circumstances I find that the openness of the Green Belt would not be compromised should the proposal be implemented without the conditional requirement. Indeed, due to the fact that the demolition of the stables was actually volunteered by the applicant at the outset, I see no compelling reasons why granting planning permission, without the imposition of the condition at issue, should not have been granted. As such, I find that the condition is neither necessary nor reasonable.

10. I therefore conclude that Condition no 6 does not serve a particular planning purpose in the protection of the Green Belt, and would not adversely affect its openness. Mindful that the Council saw fit to grant planning permission for the new buildings, the proposal would not result in undue encroachment into the countryside. Neither would there be material conflict with Policy 2 of the North Hertfordshire Local Plan 1996 with Alterations nor Policy SP5 of the North Hertfordshire Submission Local Plan (2011-2031), nor advice within the Framework.
11. I have had regard to the representations received from an interested party who objects to the proposal. The points raised relate to a considered significant increase in the numbers of people coming and going from the site, resulting in additional traffic and noise disturbance. A potential loss of view was also touched upon. In addition, reference is also made to the fact that the objector raised concerns as to the original application in 2015, yet planning permission was granted for the new stable block, garage/workshop and feed store.
12. Given that the stated intention is to transfer the existing horses at the site to the new block I consider that the proposal represents the need for and the provision of improved facilities for the stabling of the horses. From the findings at my site visit I must agree with the Council to the extent that the proposal would not give rise to adverse impacts affecting the living conditions of neighbouring occupiers.
13. As regards conditions I have imposed certain pre-application conditions as the application made provides no details of such. Neither do I hold any details as to whether, and if so which, conditions imposed on the original planning permission have been discharged, or still subsist and are capable of taking effect. In the circumstances I have therefore reproduced these as they satisfy the tests laid out in paragraph 55 of the Framework.
14. In terms of the time limitation period I have adjusted this to accord with that of the extant planning permission. In the interests of certainty I have imposed a condition requiring that the development be carried out in accordance with the approved plans. To ensure a satisfactory form of development I have also imposed conditions relating to samples of external materials and landscaping details, and that they be submitted to the local planning authority for approval. The remaining conditions relate to the issue of achieving a satisfactory access and also on-site turning space and the site's surfacing.
15. For the above reasons, and having had regard to all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 28 April 2019.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No BDS/1516/19/2/B and Location Plan.
- 3) A sample of the proposed shiplap cladding (including its proposed finish) and a sample of the proposed slate roof tile shall be submitted to, and approved in writing by the local planning authority, prior to the commencement of the development hereby permitted. The development shall thereafter be carried out in accordance with the approved details.
- 4) Prior to the commencement of the development, landscaping details covering the following points shall be submitted to, and approved by the local planning authority:
 - a) which, if any, of the existing vegetation is to be removed and which is to be retained;
 - b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting;
 - c) the location and type of any new walls, fences or other means of enclosure and any hardstanding proposed; and
 - d) any earthworks proposed.
- 5) The approved landscaping details shall be carried out within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of 5 years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
- 6) The access shall be constructed to a width of not less than 3.6m.
- 7) The development hereby permitted shall not be brought into use until the existing access has been reconstructed and the verge reinstated to the specifications of Hertfordshire County Council (the local highway authority) and to the local planning authority's satisfaction.
- 8) The development hereby permitted shall not be brought into use until a properly consolidated and surfaced turning space for vehicles has been provided within the curtilage of the site. The turning space shall be kept free from obstruction and available for use at all times.
- 9) The relocated gate shall be set back a minimum of 5.5m from the edge of the carriageway and shall open inwards to the site.
- 10) The access shall be constructed in a hard surfacing material for the first 10m from the edge of the carriageway.