



Appeal Decision

Hearing held on 5 May 2016

Site visit made on 5 May 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2016

Appeal Ref: APP/Z3825/W/15/3138237

Manton Stud, Okehurst Lane, Billingshurst, West Sussex RH14 9HR

- 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 Jacqueline Matlock against the decision of Horsham District Council.
 - The application Ref DC/14/2663, dated 10 December 2014, was refused by notice dated 18 May 2015.
 - The development proposed is described as to erect a timber building in the same style as the existing timber stable block and hay barn, to be within the curtilage of the existing buildings and for the use of the applicant and her partner. To have overnight accommodation to be granted on a temporary basis due to the declining health of the applicant's partner and the need for the applicant to care for his needs and the needs of the animals at the property.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since it issued its decision, the Council has adopted the Horsham District Planning Framework 2015 (HDPF). Both parties have provided representations regarding the decision in the light of the policies of the HDPF, and I have taken these into account in reaching my decision.

Main Issue

3. While the Council's reason for refusal referred to the essential need for an equestrian worker to live on the site, it is clear from the statements of both parties and from the discussion at the Hearing that the appellant does not operate a business from the site. Instead, she cares for eight, rare-breed horses, many of which are elderly and which she has looked after for many years and to which she has grown attached. While looking after her horses involves work, she derives no reward other than the personal satisfaction of knowing they are happy and well cared for.
 4. In light of this, I see no need to explore further whether the circumstance of rural workers' accommodation which may be permitted outside the built-up area as provided for under Policy 20 of the HDPF would apply. Accordingly, I consider the main issue to be whether there are any personal circumstances justifying the proposed dwelling as an exception to local and national planning policies which generally seek to restrict development in the countryside.
-

Reasons

Background

5. The site is part of a holding of around 2 hectares which is used to house and look after rare-breed horses. It is given over largely to grazing paddock and contains a sand school, stables, a hay barn and a field shelter. It is located beyond any built-up area boundary, in the countryside, around one mile from Billingshurst which is classified in the HDPF as a small town.
6. The horses have relatively modest care needs. The appellant attends to them at 05:00, turning out half their number in the morning and the other half in the afternoon, before locking-up at 21:00. Between these three points in the day, and overnight, they require no attention, but between times she maintains the holding, cleaning, mucking out, cutting grass and performing general duties. During inclement weather, the horses are stabled and provided with forage.
7. The appellant presently cares for her partner who has complex health needs, which require him to have access to a toilet and to be able to rest properly during the day. As she is his only carer, the appellant finds herself in the predicament of having to be in two places at once; to look after her partner off-site, as well as her horses on-site, a predicament which would be solved by a dwelling on the appeal site.
8. The appellant used to live in Ifold, around seven miles from the site. However, as her partner can no longer manage the stairs in that property and they cannot afford accommodation in the local area, they have both moved into a caravan on the appeal site. Council enforcement action which followed this has prompted the application the subject of this appeal.

Planning policy

9. HDPF Policies 3 and 4 set the development hierarchy for the District, supporting expansion of settlements outside the built-up area boundary where sites have been allocated in the Local Plan or in a Neighbourhood Plan. HDPF Policy 26 protects the rural character and undeveloped nature of the countryside from inappropriate development and requires proposals outside the built-up area boundaries to be essential to their countryside location and to support the needs of agriculture or forestry; enable the extraction of minerals or the disposal of waste; provide for quiet informal recreation; or enable the sustainable development of rural areas. Policy 25 of the HDPF protects the landscape character of the District including the development pattern, from inappropriate development.
10. Turning to the Framework, this says in paragraph 55 that local planning authorities should avoid new, isolated homes in the countryside unless there are special circumstances.
11. In terms of Horsham's spatial strategy, there is no evidence that the proposal would be essential to its countryside location, and in this respect it would not safeguard the rural character and undeveloped nature of the countryside, as required by HDPF Policy 26. Similarly, the site has not been allocated in the HDPF or in a Neighbourhood Plan, which would bring the proposal into conflict with HDPF Policy 4. The proposal would not therefore comply with the spatial strategy of the HDPF.

Effect of the development

12. The Council raises no objection to the appearance of the building which would be sited close to the existing cluster of stables, would be little different to their scale and form, and would share many of their materials.
13. However, the Council described at the Hearing how Okehurst Lane, though its agricultural uses have diminished, still retains a degree of tranquillity and a rural character underpinned by the informal pattern of development of paddocks, equestrian uses and some sporadically sited houses, scattered along its length. It considers that the introduction of a residential use on this site, with the accompanying domestic paraphernalia which it would entail, would harm the rural character of the countryside.
14. The appellant contends that the Council exaggerates the rural character of the lane; it has recently permitted a large, rural worker's dwelling to the north of the site as well as a solar farm beyond it, and the lane contains some warehouse storage as well as houses on the opposite side of the lane. She considers that the domestic paraphernalia referred to by the Council would amount to much the same as the paraphernalia associated with the present use, and, by being largely out of view from the lane, the proposal would not harm the rural character in any case.
15. I agree that the existing houses at this end of the lane lend a residential element to its character; however, these are limited in number and well separated. While the proposed dwelling would be set well back behind the trees which line the boundary to the lane, it would still be visible from surrounding land. I take into account the modest scale of the proposal and its siting in the existing cluster of buildings, as well as the fact that much of the paraphernalia of the equine use is similar to the proposed residential use.
16. While I note the presence of the solar farm and the other development in the area, my impression of the site is that it is part of a landscape which has an overwhelmingly open, agricultural and equine character, consistent with the surrounding countryside. In this context, the rural connection between the site and the surrounding land would be harmed by the intensification of residential use in this part of the lane which would result from the proposed development. In this respect, the proposal would conflict with Policy 25 of the HDPF.
17. The Council raises no objection to the proposal in terms of the sustainability of its location. I noted on my site visit that the site is around 300m from the A29 Stane Street which is served by buses into Billingshurst. While there is no footway in Okehurst Lane, the distance from the site to the main road is relatively short, and there is a path along Stane Street into Billingshurst. On this basis, I have no reason to disagree with the Council's position on the location of the site.
18. However, while the site may be in a sustainable location, paragraph 55 of the Framework refers to promoting sustainable development. The development of one house would boost the supply of housing in accordance with paragraph 47 of the Framework, and it would bring social benefits and some economic uplift. However, for the reasons above, the proposal would have a materially harmful effect on the environmental quality of the countryside. In this respect, the proposal would not satisfy the environmental dimension of sustainability. I

turn now to whether there are any special circumstances sufficient to outweigh this harm.

Personal circumstances

19. I acknowledge the difficult circumstances of the appellant, who explained at the Hearing that it was originally her intention to submit an application for a development which would provide toilet facilities and a place of shelter or mess room during the day. As the horses need no overnight care, the principle of such a course may resolve her predicament of her having to be in two places at once, i.e. allowing her to attend to the horses, while being close to her partner on site. However, the appeal before me is not for such a proposal.
20. I understand that the horses require attention and that the appellant provides for their needs; however it is clear that there is no ordinary need for anyone to remain on the site after they have been returned to their stables at around 21:00, until half of them are let out at 05:00 the next morning. Even during the day, there is no ordinary need for someone to live on-site in order to be able to change over the horses for grazing, provide forage or undertake the general duties associated with the use. As referred to above, while the provision of some form of mess and changing area with toilet and washing facility may be reasonable in the circumstances, a dwelling, as proposed here, which provides overnight accommodation, is not commensurate with this need.
21. I appreciate the dilemma of the appellant; that the health of her partner requires her attention which would prevent her from coming to the site unless he were able to accompany her, and that his condition requires toilet and rest facilities on the site. I am mindful of the cost of housing and its shortage but this circumstance is by no means unusual. Moreover, the appellant has not demonstrated that there is no accommodation in the area which she could afford that might allow her partner to remain at home while she attended, even intermittently, to the horses.
22. While I note that she is unwilling to receive state assistance in looking after her partner and that she intends to resolve her present lack of accommodation by herself, which would relieve the state of providing care and housing, this does not in itself justify the consent for a dwelling in this location. Although I take account of the appellant's personal circumstances, in this case they are not sufficient to outweigh the conflict with the development plan that I have identified.
23. I note that the appellant would be willing to accept conditions limiting the use of the building to five years and restricting it to the appellant and her partner. However, impermanence of the development would not outweigh its environmental harm. The Planning Practice Guidance states that only exceptionally should planning permission for development that would not normally be permitted be justified because of who would benefit from the permission. I do not think that a personal permission would be consistent with that guidance in the circumstances of this appeal.
24. I note the appellant's reference to an appeal in Pulborough¹, however as this relates to a Traveller site wherein a decisive factor was the shortage of Traveller pitch provision in the District, the parallels to this case are limited.

¹ Appeal Ref: APP/Z3825/A/14/2218650

Other matters

25. The views of local residents have been taken into consideration and I have already dealt with what I regard as the main planning issue. I note the concerns of the occupier of Aspen Place in Okehurst Lane regarding loss of privacy from the proposal, however, given the isolation of the site of the proposal behind the trees along the lane, the limited openings in its single storey structure, and its clustering with the stables, there would be no materially harmful impact on the living conditions of surrounding occupiers.
26. The Council has indicated that to the south of the site, on the opposite side of the lane is a Grade II listed building called Minstrels Wood. While the Council does not object to the proposal in terms of the impact on its setting, I have nevertheless undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the lane between the sites, the density of the tree planting on both sides of it, and the modest scale and location of the proposed building next to the stables, I consider that the setting of the listed building would be unaffected and therefore preserved.

Conclusion

27. I conclude that the proposal would be harmful to the rural landscape and would not accord with the spatial strategy for the district. It would be in conflict with Policies 4, 25 and 26 of the HDPF. Whilst I have taken account of the personal circumstances put forward by the appellant, for the reasons given above they are not sufficient to outweigh the conflict with the development plan that I have identified.
28. Article 1 of the First Protocol of the European Convention on Human Rights concerns enjoyment and deprivation of possessions. Article 8 states that everyone has a right to respect for his home, his private life, and his correspondence. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Dismissing the appeal may interfere with the appellant's and her partner's rights under Articles 1 and 8.
29. However, having regard to the legitimate and well-established planning policy aims which seek to restrict development in the countryside and which protect its rural character and undeveloped nature, a refusal of permission would be proportionate and necessary. It would not unacceptably violate the appellant's and her partner's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights. For the reasons above, and taking into account all other matters raised, I conclude that the appeal should not succeed.

Patrick Whelan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jacqueline Matlock
Paul Overington
S Overington

Appellant
Husband of the appellant's niece
Appellant's niece

FOR THE LOCAL PLANNING AUTHORITY:

N Mason
J Scrivener

Senior Planning Officer, Horsham District Council
Reading Agricultural Consultants