

SECTION '2' – Applications meriting special consideration

Application No : 15/03133/RECON

Ward:
Darwin

Address : Yonder Farm Orange Court Lane
Downe Orpington BR6 7JD

OS Grid Ref: E: 543164 N: 162712

Applicant : Ms Sarah Williams

Objections : YES

Description of Development:

Removal of conditions 3 and 4 of planning permission reference 02/01905 (for use of building and land for stables and construction of sand school and use of land for keeping of horses) to enable use of buildings and sand school for commercial use

Key designations:

Biggin Hill Safeguarding Birds Aldersmead Road
Biggin Hill Safeguarding Area
Biggin Hill Safeguarding Area
Green Belt
London City Airport Safeguarding
London City Airport Safeguarding
London Loop
Sites of Interest for Nat. Conservation

Proposal

The application is accompanied by a supporting statement which advises that the business at the site has developed over 10 years and now includes liveryes and dressage teaching and that the applicant also now sells horses.

The case is made by the applicant's agent that the conditions in question are unjustifiable, in light of Paragraph 206, which advises that these should only be imposed where they are: necessary; relevant to planning and to the development permitted; enforceable; precise; and reasonable in all other respects. The statement goes on to say that the use provides a worthwhile economic and social function, and that it has caused no adverse environmental impact in the time that it has operated.

Reference is drawn to a 2014 Witness Statement /2015 Affidavit both of which were provided in support of application reference 14/03187 in which the applicant sought a Certificate of Lawfulness in respect of the use of the equestrian use of the site. The applicant confirmed that she purchased the site in 2002, in the same year that she relocated her business to the application site. The business continued to develop and expand, and the following facilities provided at the site:

- 60m x 20m manège
- a horse walker
- a stable block of 3 stables
- a further stable block of 3 stables
- a large barn with lean-to to include covered yard and tack room
- a block of 7 stables
- a residential flat

The applicant also states that there are 5 acres of grassland laid out in paddocks and that were between 15 and 18 horses at Yonder Farm at any one time, of which approximately one third were owned by the applicant and two thirds were liveries.

Location

The site is situated to the north of Downe Village, along the northern side of Orange Court Lane, and approximately 200 metres to the east of its junction with Farthing Street. The site is rural and falls within the Green Belt. The site measures approximately 2 hectares / 5.0 acres in area, as ascertained by the site plan provided.

Consultations

Comments from Local Residents

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- no adverse impact deriving from commercial equestrian activity on the site in terms of neighbouring amenity
- applicant provides a valued service

Representations have been made by the Downe Residents' Association which can be summarised as follows:

- applicant has disregarded conditions imposed in respect of earlier planning application and pursued a commercial use of the site
- use of the site fails to provide adequate grazing land for the number of horses kept at the site, in terms of the recommendation level set out in Policy L4 of the UDP, and she is grossly exceeding the British Horse Society's recommended standard by 10 to 13
- excessive number of horses and stables on this site
- applicant has admitted in her Witness Statement that she has run a business in breach of planning conditions for financial gain

Comments from Consultees

No technical Highways objections raised, subject to a parking-related condition.

Planning Considerations

The following Unitary Development Plan policies are relevant to this application:
BE1 - Design of New Development

G1 - The Green Belt
 L3 & L4 - Horses, Stabling and Riding Facilities
 T3 - Parking

In addition, Section 9 of the National Planning Policy Framework (NPPF) - 'Protecting Green Belt Land - is a material consideration to this application.

Planning History

The site planning history is summarised in the table below:

Reference	Proposal	Decision	Date of Decision
91/00682	Detached dwelling and garage (outline)	Refused	04.07.1991
01/01958	Conversion of barn into a dwelling	Refused	03.08.2001
02/01905	Use of buildings and land for stables and construction of sand school; use of land for keeping of horses	Permission	02.10.2003
14/03187	Use of buildings and land as a stable and riding school without complying with condition 3, 4 and 7 of permission ref 02/01905 CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE	Certificate Refused	07.07.2015
14/03188	Use of part of barn as residential dwelling CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE	Not determined	N/A
15/01584	Use of part of barn as residential dwelling CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE	Certificate Refused	07.07.2015

In respect of application references 14/03187 and 15/01584, the Council declined to confer lawful status on the use of the land in respect of the equestrian and residential uses within the site. Both applications were refused on the following ground:

'The evidence produced to support the application has been arrived at by a process of deliberate concealment and as such the applicant should be deprived of the immunity offered under s171B (3) of the Town and Country Planning Act 1990 (as amended).'

The above approach was based on the principles set out in the Supreme Court's ruling on *Welwyn Hatfield Borough Council v Secretary of State for Communities and Local Government and Another [2011] UKSC 15*.

The above applications are currently the subject of a planning appeal.

Conclusions

The main issues in this case relate to the appropriateness of this use within the Green Belt; its impact on the openness of the Green Belt; and the degree of intensification of horse-related activities on the site. In essence, Members will have to consider the merits of the commercial equestrian use at the site for which retrospective planning permission is sought, in contrast to the lawful use of the site for stables and a sand school for the applicant's personal use.

Firstly, in light of Policy G1 of the UDP and the NPPF, both of which maintain a consistency of approach in defining appropriate uses within the Green Belt, it is considered that an equestrian use of the site can be acceptable in principle, if the facilities are appropriate for outdoor sport and recreation. The personal equestrian use of the site was considered acceptable by the Council at the time that planning application reference 02/01905 was permitted in October 2003.

However, in view of the commercial nature of the use, the number of horses based at the site has increased to between 15 and 18 (on account of the applicant's witness statement). Accordingly, it will be necessary to consider whether this amounts to an unacceptable intensification in activity, to the detriment of the Green Belt. Paragraphs 9.15 - 16 of the UDP advise that:

"The Council recognises the increasing demand for horse riding and the keeping of horses as a pastime and that the associated buildings and uses can be an integral part of the rural environment. The popularity of this activity, however, has given rise to a number of problems. The location, standard and intensity of buildings required in connection with equestrian activity threatens to spoil the appearance and the character of the Green Belt and other open areas. Other problems include untidy jumping areas, over-intensive grazing and riding on footpaths, all of which the Council wishes to discourage in order to safeguard other uses of the countryside and to prevent the landscape becoming unsightly. Conditions will be imposed where appropriate to control the storage and removal of horse-related waste. Encouragement for schemes which amalgamate facilities on adjoining land in different ownerships should help to minimise visual intrusion and result in a better design and layout.

"Applications for stables or loose boxes will only be considered acceptable if there remains a commensurately large area of associated open land adjacent, for the grazing of horses. In this regard, the Council will require the designated paddock land to remain in the same ownership as, or under the control of, the operator of the stables and should be a minimum ratio of 0.4 ha per horse. The British Horse Society's recommended standard of 0.4ha per horse is considered to be a minimum requirement for grazing horses. Where the proposed stables or loose boxes are within the curtilage of an existing livery stable or riding school, the number of horses kept and exercised in the locality, the intensity of use of local bridleways and the effects on the surrounding countryside of horse-related activities will be taken into account."

Based on the site area, it is clear that the number of horses kept at the site is well in excess of the BHS's recommended standard of 0.4ha per horse. The Council

originally granted planning permission under reference 02/01905, on the basis that the equestrian use would be for the applicant's personal use. This was justified on the basis of protecting the character and openness of the Green Belt. Since that time it has transpired that the site has been used on a commercial basis (as documented in the application seeking Certificates of lawfulness for the existing use).

A key Green Belt policy objective is to ensure that development does not have a materially greater impact on the character of the land, and that its openness and visual amenity shall not be injured by proposals which might be visually detrimental by reason of scale, siting, materials or design. Whilst this application seeks to remove conditions restricting activity at the site to personal use, as a consequence, any safeguards controlling activity would be jettisoned, meaning that there would be no safeguard to limit the intensification of the use of the site, and associated activity and paraphernalia that this would entail. This could serve to undermine the character and openness of the Green Belt, enabling potentially unrestricted commercial equestrian activities to operate. In its existing form, it is clear that the site cannot provide sufficient grazing land for up to 18 horses, in terms of British Horse Society benchmarks. Furthermore, there is insufficient assurance in this application to demonstrate that this application will not lead to excessive activity within Green Belt site.

On balance, the alteration from personal to commercial use is not justified and is harmful to the openness and character of the Green Belt. There are no very special circumstances to override the in principle harm of the intensified use and at a commercial level the use is unacceptable.

Background papers referred to during production of this report comprise all correspondence on the file refs set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

The proposed development would result in an undesirable intensification of use in the Green Belt, contrary to Policies G1, L3 and L4 of the Unitary Development Plan and Section 9 - Protecting Green Belt Land - of the National Planning Policy Framework.

Further recommendation:

Enforcement action authorised to seek cessation of unauthorised commercial and residential activity at the site.