



Appeal Decisions

Hearing held on 10 January 2012

Site visit made on 10 January 2012

by David Richards BSocSci DipTP MRTPI

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

Decision date: 27 January 2012

Appeal A: APP/K3415/A/11/2159504

Land adjacent to Castle Farm, Meg Lane, Burntwood, WS7 9HE

- 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 Mr F A Hulme against the decision of Lichfield District Council.
- The application Ref 11/00496/COU, dated 13 April 2011, was refused by notice dated 20 June 2011.
- The development proposed is change of use of land from agriculture to equine use.

Summary of Decision: The appeal is dismissed

Appeal B: APP/K3415/C/11/2159506

Land adjacent to Castle Farm, Meg Lane, Burntwood, WS7 9HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr F A Hulme against an enforcement notice issued by Lichfield District Council.
- The Council's reference is 10/316/ENFCU.
- The notice was issued on 29 July 2011.
- The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the land from agriculture to the use of land for the keeping of horses for recreational purposes (Equine Use).
- The requirements of the notice are: Cease the use of the land for the use of the land (sic) for the keeping of horses for recreational purposes (Equine Use) by not:
 - Riding, exercising, training or grooming horses on the land
 - Bringing on additional food
 - Storing horse boxes on the land
 - Carrying out any other activities associated with the recreational use of keeping horses on the land,so that the land is used purely for animals to graze (agricultural use).
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

1. There is an error in the first part of the requirements of the enforcement notice, where the words 'the use of the land for' are repeated unnecessarily. I

raised this at the hearing, and there was no objection raised to this being corrected by the deletion of the repeated words. I can do this without causing injustice to any party.

2. The site which is the subject of the section 78 planning appeal is in two parts, separated by Meg Lane. The use sought by the planning application has only commenced on the south side of Meg Lane, so the application and the appeal are in part retrospective. The application deemed to have been made under section 177(5) of the 1990 Act ('the deemed planning application') associated with the appeal against the enforcement notice only applies to the land to the south of Meg Lane.

Appeals A and B: The section 78 appeal and the deemed planning application.

Main Issues

3. The appeal site lies in the Green Belt. It was agreed at the hearing that change of use of the land from agriculture to equine use would not amount to 'inappropriate development' as defined in Planning Policy Guidance Note 2: Green Belts. Accordingly, the main issues are the effect on the character and appearance of the countryside and the amenity of the Green Belt, the effect on Cannock Chase Area of Outstanding Natural Beauty (the AONB), the effect on the living conditions of local residents, and the effect on highway safety.

Reasons

Effect on the character and appearance of the countryside and the amenity of the Green Belt.

4. The land lies on the north-eastern edge of the built-up area of Burntwood. It forms a buffer of open countryside between the urban area and the nearby boundary of the AONB. It lies on the south-western side of a brook course, from where the land slopes up to Burntwood. Although close to the urban area, it has a strongly rural character, with a few scattered dwellings, including a farmhouse formerly associated with the land, but which has now been sold.
5. The land to the north of Meg Lane retains its rural, agricultural character of pasture land with established hedgerows and trees on the boundaries. The land to the south where the use has commenced was previously of similar character, but now shows signs of more active use including field divisions and some temporary structures, including field shelters.
6. I acknowledge that low key use of land for grazing of horses is acceptable in the countryside and would not necessarily have any significant impacts on its character and appearance, or the amenity of the Green Belt. However there is evidence of much more intensive use of the land to the south of Meg Lane, which amounts to the keeping of horses for recreational purposes, and which in my judgment has had a harmful effect on the character and appearance of the countryside. The extensive use of plastic strip fencing to subdivide the fields is an intrusive feature and alien to its informal character. While some of this fencing was removed prior to the hearing, there is still a considerable amount in place and it imposes an unattractive geometric pattern of sub-divisions on the otherwise informal traditional landscape pattern of the area. Although not within the AONB itself the land is of considerable scenic value in its own right, and the effects should be judged accordingly.

7. There are also a number of field shelters on the land, of a type which are characteristic of this type and intensity of activity, and which impact on the openness of the Green Belt. While these are not included in the enforcement action, and would normally be within the control of the planning authority through planning legislation, granting permission for change of use would inevitably give rise to an expectation and requirement for such structures, making it more difficult for the authority to refuse permission.
8. I was also presented with evidence of frequent visits to the land by large vehicles such as horse-transports and farriers' vehicles, together with car-borne visits by owners and their families. The evidence was that this activity occurred with a frequency and intensiveness that was at odds with the peaceful, pastoral character of the land. To my mind, the combination of visual harm from the fencing and other structures and the levels of associated activity, including the comings and goings and parking of vehicles has resulted in the use being incompatible with the character of its countryside setting.
9. Similar considerations apply to the effect on the amenity of the Green Belt. While not amounting to 'inappropriate development', the visual changes and pattern of usage are harmful to the amenity of the Green Belt.
10. Accordingly I conclude that the development conflicts with Policy D4 of the Staffordshire and Stoke on Trent Structure Plan (SP) which requires that development in the countryside should not be of a scale or type which would adversely impact on the rural setting, and Policy D5B, which requires development in the Green Belt to maintain the visual amenities of the Green Belt.

Effect on Cannock Chase AONB

11. Policy NC3 of the SP requires that the acceptability of development proposals outside the AONB boundary will be assessed with regard to the extent of any adverse impact on the landscape, nature conservation or recreation interest of the AONB.
12. The boundary of the AONB is some 500 - 600 metres from Meg Lane, which bisects the appeal site. The open heathland of Gentleshaw Common is highly characteristic of the Cannock Chase landscape, and of very high amenity value. The site is visible from Chorley Road, on the AONB boundary, and from the rising ground to the north. I visited the site in the winter months, when views of the site from this direction are filtered by trees on field boundaries, even when the leaves have dropped. While I accept that the visual impact of the development would be limited when viewed from the Chase in the context of the urban area behind, as stated above I have already concluded that the land is of high scenic value in its own right, and that the use would be harmful in that context.

Effect on living conditions

13. Residents of Castle Farm presented extensive written evidence of patterns of usage of the land behind their property. This was supported by video material shown at the hearing. There is no question that the way that the land has been used goes far beyond grazing of horses. It is not disputed that the land has been sub-divided and the individual paddocks rented out to horse owners. At the time of the hearing I was told that there were 18 horses on the land south of Meg Lane, while previously there had been up to 23. This has resulted

- in frequent visits by owners, sometimes in large groups. There has been a substantial increase in the number of vehicles coming to the site, well in excess of what would be associated with agricultural use of the land or the grazing of horses.
14. The existing access to the site passes close to Castle Farm, and much of the activity takes place on or near to an area of hardstanding to the rear of the dwelling. This can include feeding, grooming, saddling, exercising, veterinary care and shoeing, as well as the parking and turning of associated vehicles. There is also a manure trailer, and former agricultural buildings used for storage of food and equipment. At times floodlights have been used after dark. To my mind this has resulted in an unacceptable degree of noise and disturbance to the occupiers which is well beyond what would be considered reasonable in a predominantly rural environment. The use has often been accompanied by social gatherings, particularly in the summer months, at weekends and in the evenings. All this adds up to a degree of disturbance and intrusion which I consider unacceptable. While Castle Farm has a good sized garden, the yard area at the rear where much of the activity takes place is elevated, and allows extensive overlooking of the garden and habitable room windows.
 15. Other nearby properties have also been affected by the increase in activity, and though this is to a lesser degree than Castle Farm, I consider that the use has resulted in significant harm to the living conditions of occupiers of nearby dwellings.
 16. The appellant suggests that the access, car park and main focus of activity could be moved further away from Castle Farm. While this might provide some relief to the occupiers of Castle Farm, it could result in greater disturbance to other residents. In any event, it would represent a material change to the nature of both the deemed planning application and the section 78 planning application which has not been subject to appropriate publicity and consultation with the public. As such, it is not open to me to take it into account in determining these appeals.
 17. It is also suggested that the intensity and nature of activity could be regulated through a management agreement which could be made the subject of a condition. However, there is no draft agreement before me, and in any event I am not satisfied that such an agreement would give the local planning authority an effective and enforceable means of controlling the intensity of activity, the frequency or duration of visits to the site, and the manner of use. It is unlikely that those using the land to graze their horses would have access to stabling or other facilities for feeding, grooming, shoeing and so on in the locality, and would have an expectation that these activities could take place on the land, thus continuing to give rise to the potential for ongoing conflicts with countryside and amenity policies.
 18. I conclude that the use conflicts with Policy DC.1 of the Lichfield District Local Plan (LP), which resists developments which would cause loss of amenity to adjacent properties.

Effect on highway safety

19. The existing access to the land south of Meg Lane is on a bend with poor visibility. While it is a long established access for agricultural use, it is not

suitable for the increased usage generated by the equestrian use. A scheme to move the access and parking area has been proposed and it is accepted by the highways department representative that this would resolve the safety issue. However, as noted above, it is beyond the scope of the planning application and the deemed planning application which are before me. The suggested car park may also have implications for Green Belt and Countryside policy. As matters stand I consider that the existing access arrangements are unsatisfactory from a highway safety point of view, and weigh against allowing the appeals.

Other matters

20. I acknowledge that other policies in the development plan and in national guidance support equestrian use in pursuit of countryside recreation, diversity and economic benefits to the rural economy. For example policy D4 of the SP promotes development which assists on diversifying the local economy, while seeking to ensure that such development is not of a type which would adversely impact on the rural setting, and to protect the countryside in its own right. Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS 7) and Planning Policy Statement 4: *Planning for Sustainable Economic Growth* (PPS 4) support equine activity, while recognising that these should maintain environmental quality and countryside character, and take into account amenity impacts. I accept that the use would provide an income for the landholding, though no evidence has been put forward that it would help to sustain an otherwise viable farm unit. However, such policies require a balance to be struck between the benefits and the disadvantages of a proposal. While I give some weight to the provision of facilities for countryside recreation and support for the local economy, I attach greater weight to the specific disadvantages identified above.
21. The appellant drew my attention to a number of examples where the local planning authority has granted planning permission for keeping of horses and erection of associated facilities and buildings. Two were subject to personal use conditions, and one involved re-use and refurbishment of an existing building. However, I have limited information as to the levels of activity involved and the precise circumstances as regards countryside and amenity impacts. While I have no doubt that there will be some circumstances and locations when the use applied for would be acceptable, I have determined these appeals on the specific circumstances of the case before me, which have led me to conclude that planning permission should not be granted.

Conclusion on the deemed planning application and the section S78 application

22. For the reasons given above, I conclude that the appeals should be dismissed.

Appeal B: The appeals on grounds f) and g)

Ground f)

23. The ground of appeal is that the steps required by the notice to be taken go beyond what is necessary to remedy any breach of planning control, or as the case may be, to remedy any injury to amenity.
24. It was argued at the hearing that the requirement not to bring additional food onto the site was unnecessary and unreasonable, as the site has a lawful use

for agriculture, and it is a normal part of farming activity to provide supplementary feed for grazing animals.

25. I note the enforcement notice is addressed specifically at the keeping of horses for recreational purposes, and the requirement would not prevent food being brought onto the land to provide supplementary feed for other animals. Nevertheless I accept that it goes beyond what is necessary to remedy the breach of control, or any injury to amenity arising from the use. The appeal on ground f) succeeds to this limited extent, and I shall exercise my power to vary the notice accordingly.

Ground g)

26. The ground of appeal is that the period given for compliance with the requirements of the notice is too short. While it is in the public interest that the breach of planning control and injury to amenity is brought to an end as soon as possible I accept that two months is an unduly short period for people who currently keep horses at the site to make alternative arrangements. I consider that a period of four months would strike a reasonable balance between these competing interests. The appeal on ground g) succeeds and I shall vary the notice accordingly.

Decisions

Appeal A: APP/K3415/A/11/2159504

27. The appeal is dismissed.

Appeal B: APP/K3415/C/11/2159506

28. I direct that the enforcement notice is corrected by the deletion of the first instance of the words 'the use of the land for' in the first line of Section 5. The appeal is allowed in part on grounds (f) and (g), and the enforcement notice is varied: by the deletion of the words 'bringing on additional food' from Section 5; and by the deletion of '2 months' and the substitution of '4 months' as the period for compliance. Subject to these corrections and variations the enforcement notice is upheld. The appeal on ground (a) is dismissed and planning permission refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Richards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Timothy	CT Planning
F A Hulme	Appellant
J Hulme	

FOR THE LOCAL PLANNING AUTHORITY:

Christine Hibbs Dip TP. MRTPI	Lichfield District Council
Ruth Hytch	Cannock Chase AONB Officer
James Chadwick	Staffordshire County Council

INTERESTED PERSONS:

P Barnard	Local resident
M Barnard	Local resident
J Dring	on behalf of Mr Pountney, Local resident
J Kilgallon	Local resident
C Beard	Local resident

DOCUMENTS

- 1 Letter from Mr and Mrs Kibble 11 Dec 2011