



Appeal Decision

Site visit made on 12 May 2015

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 24 June 2015

Appeal Ref: APP/L3245/W/15/3003456

Land adjacent to Primrose Cottage, Twitchen, Craven Arms, Shropshire, SY7 0HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Paul Williams against the decision of Shropshire Council.
 - The application Ref 14/01150/FUL, dated 14 March 2014, was approved on 29 July 2014 and planning permission was granted subject to conditions.
 - The development permitted is the "erection of a 3-bay stable block to include hardstanding and the change of use of land for the keeping of horses".
 - The conditions in dispute are Nos 5 and 6 which state that: "The stables and land hereby approved shall not be used for any other purpose (including any commercial activities) other than for the keeping of horses for private purposes." (No 5) and "The existing shed shall be used solely for the storage of feed and equipment related to the private keeping of horses on the site." (No 6)
 - The reasons given for the conditions are: "To safeguard the amenities of the locality" (No 5) and "To safeguard the amenity of neighbouring properties" (No 6).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although not explicitly stated on the appeal form, the appellant confirmed by email that both conditions 5 and 6 are subject of the appeal.
3. The appellant submits that the removal of the agricultural use did not form part of the planning application and that he had applied for a mixed agricultural and equestrian use of the land. The description on the application form was "proposed stable block". However, the Council says that the appellant agreed that the planning application was to change the use of the land from agricultural to equestrian use and therefore it changed the description from that on the application form to the description on the decision notice. There is clearly disagreement between the parties in respect of what was agreed in respect of the description of development. Nevertheless, the Council has changed it so this is the permission that is now before me regardless of whether or not the appellant agreed to such a change.

Main Issue

4. The main issue is whether the requirements of conditions 5 and 6 are reasonable and necessary in the interests of (i) highway safety and (ii) the living conditions of neighbours.

Reasons

5. The appellant says that the conditions prevent the agricultural use of the land and buildings. Section 55 of the above Act excludes from the meaning of development, the use of any land for the purposes of agriculture. However, whether it is lawful for the land to be used as a mixed use of both agricultural and equestrian is not a matter for me to determine under a S.78 appeal. It is therefore open to the appellant to seek a determination under S191/192 of the Act in relation to this matter. My decision on this appeal under Section 78 of the Act does not affect the issuing of a determination under Section 191/192 of the same Act.
6. There are some dwellings adjacent to the site. I also saw at my visit that the road on which the access is located is narrow and at times vehicles appeared to be travelling fast along it. The Council's justification for imposing the conditions is that the application was assessed upon information before them which indicated that the appellant would be using the land and new stables for his own personal use and that the existing building would not be used for stabling. As such, the equestrian use would be a low key one and this was the basis upon which the application was considered. The implications of a more intense use were not therefore examined. The Council's concern is that a more intense use could have implications for highway safety and the living conditions of neighbours; therefore, restricting the use of the site to that for the keeping of horses for private purposes would prevent harm in this respect. Because a commercial or more intense use has not been assessed, I therefore conclude that both conditions 5 and 6 are reasonable and necessary to protect the living conditions of neighbours and to avoid harm to highways safety.
7. The appeal is therefore dismissed.

Siobhan Watson

INSPECTOR