

ENBORNE 18/00687/FUL	The Barn Crockham Heath Farm Wheatlands Lane Crockham Heath Mr and Mrs M Goode	Section 73A: Variation of Condition 5: No open storage of approved application 10/02814/FUL - Change of Use of agricultural land to equestrian use and construction of stable block.	Non- Determination	Allowed 29.2.19
PINS Ref 3203096				

Procedural matters

When the application was submitted to the Council the appellant signed Certificate B on the application form to certify that the requisite notice was served on those who were owners of any part of the land to which the application relates. However, the appeal form indicated that no one, except the appellants, were the owners of any part of the land to which the appeal related (Certificate A). This would suggest that the relevant notices at the appeal stage were not served. Subsequently notice has been served on the owners of the land. It is clear that the owners of the relevant land were aware of both the application and the appeal. As such no party has been prejudice through this error and so the Inspector was content that he could determine the appeal.

A separate appeal has been submitted for the same site, relating to the provision of a number of buildings and that appeal is subject to a separate decision.

Background and main issue

In March 2011 planning permission was granted for the change of use of agricultural land to equestrian use and construction of a stable block. That permission was subject to a number of conditions including condition 5 which required that no materials, products, plant or equipment be stored on the open land. The appellants wish this condition to be altered to allow for open storage of up to 2 horse boxes, a tractor, equipment and feed.

The Council did not determine the application, however, in the statement it confirms that it would have granted planning permission for the development without the condition in question, but subject to additional conditions. An interested party has also raised a number of concerns. The main issue is whether the condition is necessary in the interests of visual amenity.

Reasons

The appeal site is in an established equestrian use. There is one relatively large building which contains a number of stables, a horse walker, and three other smaller structures which are subject to a separate appeal. An area of yard is located to the west and south of the building and there are also two grassed areas on site. The site is relatively small and well contained with boundary treatments and landscaping.

At the time of the Inspector's site visit, the externally stored items he observed consisted of a horse box, 2 pallets with bedding stored to a height of a little over 2m and a piece of agricultural equipment.

The roadside hedge provides a good degree of screening particularly of the smaller buildings and the items stored in the open areas. There is a public footpath to the west which crosses the access to the site before continuing north. From some sections of the footpath there are clear views into the site. However, these are relatively limited. Storage in the open areas would be well related to the existing structures on the site and these would be seen in the context of the existing equestrian use. In view of the well-contained nature of the site, stored items, machinery and feed would not appear out of keeping or harmful to the character and appearance of the area.

Crockhamheath Farmhouse is a Grade II listed building and so special regard must be had to the desirability of preserving the setting of the building. It is located some distance to the north. The open areas in the appeal site are all close to the large building and horse walker. Some storage in these areas would not materially affect the setting of the listed building.

The small site area and the restriction to personal use would be sufficient to limit the amount of external storage that would reasonably take place. As such, there is no need to expand the condition to only allow

the items specified by the appellant or to restrict storage to a specific area. As such, the imposition of the condition is not necessary at all.

The development, without a condition restricting storage on the open land would not result in harm to the visual amenity of the area. It would accord with Policies CS 14 and CS 19 of the West Berkshire Local Plan Core Strategy (2006-2026) which, together, seek to ensure development respects the character and appearance of the area and that heritage assets and their setting are conserved. There would also not be conflict with Policy CS 12 of the Core Strategy or Saved Policy ENV.29 of the West Berkshire District Local Plan 1991- 2006 which both allow for equestrian development.

Other matters

A number of matters have been raised in respect of the public footpath which is located close to the site and over which the access to the site crosses. This includes issues related to trespass, gates and fencing, drainage, and lack of compliance in respect of a diversion order. The appeal relates to amending the open storage restriction at the site. All the concerns raised relating to the footpath are not connected to open storage on the site. As such, the Inspector could not give any significant weight to these matters and they would not lead him to conclude that the proposal is unacceptable.

There are allegations that a business may have been operated from the site. The Inspector noted that there was a condition on the original planning permission which prevents this from occurring. The proposal before him did not seek to alter or remove that condition and therefore this is not a substantive issue for this appeal.

Conclusion

The Inspector concluded that the condition is not necessary in the interests of visual amenity. The development, without the condition, would accord with the development plan when considered as a whole. Therefore, the appeal should be allowed.

Conditions

The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

As the development has already commenced, it is not necessary to impose a condition requiring that the consent be implemented within a specific period of time. Similarly, as the building has been erected, it is no longer necessary to have a condition dealing with external materials.

The development is proposed on the basis that the site would be used for private use. A commercial use of the site would require detailed consideration in respect of matters including the effect of the development on highway safety and the general amenity of the area. Therefore it is necessary that the use is limited to private recreational use only. In the interests of the character and appearance of the area it is necessary to secure landscaping and control lighting.

It appears that the landscaping scheme required by condition 3 of the original permission was never submitted. The Inspector observed landscaping on site including some very recent planting on the western boundary and close to the horse walker. However, he did not have full details of the scheme that has been implemented and therefore he could not reach an informed conclusion as to whether it is sufficient. It is therefore necessary that a landscaping scheme be approved by the Council and, if necessary, additional or different planting is provided.

The purpose of condition 2 is to require the appellant to comply with a strict timetable for dealing with the landscaping scheme which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition to secure the subsequent approval and implementation of the outstanding detailed matter. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.

The Council has suggested a number of conditions in addition to those imposed on the original decision notice. There would be no value in a condition requiring the development be carried out in accordance with specified plans as the building operations have already been carried out.

The Inspector noted that there was no condition in respect of drainage on the original permission. Even if there were drainage problems at the site, it would be neither reasonable nor necessary to seek to rectify that situation now when the matter in question, external storage, would not materially alter drainage on the site.

The Council concluded that matters related to the access crossing the footpath, including the provision of signage, should not be controlled as part of this development. Given the use of the site for external storage would have no impact on the footpath, and it would not result in any increase in vehicle movements, he agreed that this would not be reasonable or necessary.

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