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# Appeal Decision

Hearing held on 23 May 2013

Site visit made on 23 May 2013

**by Gareth Symons BSc Hons DipTP MRTPI**

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

**Decision date: 2 July 2013**

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**Appeal Ref: APP/Q4625/A/13/2192313**

**66 Salter Street, Earlswood, Solihull, West Midlands, B94 6DE**

- 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 Joseph Doherty and Bernard Doherty against the decision of Solihull Metropolitan Borough Council.
  - The application Ref: 2012/1314, dated 10 August 2012, was refused by notice dated 2 November 2012.
  - The development proposed is erection of stable building, re-siting of existing stable building, retention of hardstanding and construction of all weather riding arena.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the appeal scheme would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy, and, if so, whether that harm, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify the development.

## Background

3. The appellants occupy a gypsy caravan site which was granted planning permission (Ref: 2010/1336) by the Council in October 2010. The site lies to the east of the Stratford-on-Avon canal and is accessed by a private road that runs alongside the canal off Salter Street. The appellants also own a paddock at the rear of the caravan site which slopes gently down towards the bottom of the valley and the River Blythe. In June 2011 part of this paddock, from the back of the caravan site and extending out by about 55m, was raised in level by the importation of stone materials to an average depth of 2 to 3 feet. Caravans were then moved onto the new hardstanding.
4. The Council issued Temporary Stop Notices to prevent any further works and any more caravans being moved on to the new surface. Enforcement notices in relation to the unauthorised operational development and the change of use of the land were subsequently issued by the Council. These enforcement notices were appealed against. The Inspector found that the operational development notices (Appeal Refs: APP/Q4625/C/11/2158812 & 2158817)

were nullities and thus took no further action. The appeals against the change of use notices (Appeal Refs: APP/Q4625/C/11/2158806 & 2158818) were dismissed on 15 June 2012 and the enforcement notices were upheld. The Council had previously also refused a retrospective planning application (Ref: 2011/1020) on 9 September 2011 to retain the unauthorised extension to the gypsy site. Caravans are no longer on the extended site. Injunction proceedings remain pending in relation to the unauthorised works.

5. The scheme the subject of this appeal is for two stables and an all weather riding arena on top of part of the unauthorised hardstanding which covers an area of about 1250 sqm. The site extends out from the back of the caravan site by 25m. It is proposed that the deposited material would be remodelled by creating a step down across the back of the caravan site of 0.8m where a new retaining sleeper wall would be constructed. The land across the appeal site would then be graded out to a fall of 1:50. Where the appeal site ends another sleeper wall would be erected to retain the deposited material which would be 1.0m high before then reaching the natural ground level of the paddock. The remaining deposited material east of the last sleeper wall would be removed entirely. There would be lines of trees and shrubs across the back of the caravan site and in the paddock in front of the last sleeper wall.

### **Planning Policies**

6. It was agreed at the hearing that the planning policies most relevant to the determination of this appeal are *C2 Control of Development in the Green Belt*, *C8 Landscape Quality*, *C10 Recreation in the Countryside* and *ENV12 River Blythe Catchment Area* from the adopted Solihull Unitary Development Plan (UDP).
7. Criterion (ii) of policy C2 refers to "Development for the purposes of outdoor sport and recreation, including **essential** built development...". This reflects Government Green Belt policy at the time contained in PPG2 *Green Belts*. However, that was replaced by the NPPF which at paragraph 89, second bullet point now refers to "provision of **appropriate** facilities for outdoor sport...". There is an inconsistency between the wording of the planning policy and the NPPF which partly affects the weight to be attached to policy C2. However, in all other respects the UDP policies have significant weight in the determination of this appeal.

### **Reasons**

#### *Inappropriateness*

8. The Council accepts that the stables and the riding arena would not be inappropriate development in the Green Belt on the basis that they would be appropriate facilities for outdoor sport and recreation. I agree, particularly as one of the stables already has planning permission and it would just be moved from within the caravan site out into the paddock. Despite misgivings expressed by some objectors about the validity of the appellants' need for such facilities I was told that horses are kept and bred for trotting purposes at various Gypsy gatherings and horse fairs. This is a hobby for the appellants based on their Gypsy status and tradition. I have no reasons to disbelieve this and the Council has granted permission for other stables and maneges in the Green Belt irrespective of the applicants' backgrounds.

9. The Council though does not accept that the proposal to retain a modified hardstanding would not be inappropriate development. The appellants argue that on any sloping site there would be a need for associated engineering works to create a level area for stables and an arena. In this case the drop from the caravan site down to the field required material to be brought in to grade out the difference in levels and so a conventional cut and fill solution was not appropriate. Also, any manege requires excavation to allow for a permeable base layer before being laid over with either sand or rubber chippings. This is accepted and in my experience such works are part and parcel of what a local planning authority normally grants planning permission for in such circumstances.
10. However, in this case, I was told that the existing ground slope over most of the site reflects the original slope of the paddock under the deposited stone, except that initially from the caravan site into the field where the difference in levels were steeper. Given this and the relatively small size of each stable building, there is no doubt in my mind that there would have been no need to extensively raise the land level across the entire site just to create level ground for the stables. My view is the same for the manege. It was also stated at the hearing site visit that the existing site slope, the same as the original ground level, would be a workable slope for training horses on anyway. Some slope also assists with natural drainage. It is acknowledged that the submitted plans show a large turning circle where a horse box could be loaded, unloaded and turned. However, I am not at all persuaded by the argument that this area would have needed compacted stone to its current depth.
11. Retention of a significant amount of the unauthorised hardstanding, albeit in a modified form, goes well beyond ground works that would be needed for the purpose of accommodating the stables, arena and turning circle. It seems to me that the scheme has been contrived to keep a lot of the deposited material in place rather than face the prospect of having to remove it. The deposited material has had an impact on the openness of the Green Belt which in my view has introduced an unnecessary and artificially high land level that has inevitably encroached into the Green Belt as well. Against this background, the operational development comprising the hardstanding would be inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt.

#### *Visual Amenities of the Green Belt*

12. Stables and maneges are commonly seen in the countryside often around the edges of settlements. In principle therefore the proposed horse related infrastructure would not look out of place. The artificially created steps in the land form though would be unwarranted alien features protruding out above the natural ground level that would not maintain the distinctiveness of the subtle slope of the land down towards the River Blythe. Planting along the lines of each land level change would draw attention to the features rather than assimilate the new contours into the local landscape.
13. It is accepted that views of the appeal site are limited. The closest views are from the canal towpath southwest of the appeal site. Trees and plants along edge of the canal and down the south side of the appeal site do afford some screening. From further away to the east there are some higher ground views from the backs of properties in Warings Green Road. Intervening vegetation and the distance over which those views are from would also diminish the

impact of the development. However, the mainly deciduous nature of the vegetation would significantly lessen during the winter thus exposing the raised level of the land and its steps. Also, the artificially higher ground would make the stables more prominent than they would otherwise need to be if it were not for the unjustified presence of the imported material. Even though the effect of the development would be local, there would still be a significant adverse impact on the character and appearance of the area that would thereby not safeguard the visual amenities of the Green Belt.

14. The proposed development conflicts with the Green Belt and landscape protection aims of UDP policies C2, C8, C10 and ENV12.

#### *Other Considerations*

15. Having stables and a horse training arena would allow the appellants to carry on their hobby and maintain an important part of the Gypsy way of life. The needs of horses can also best be met by having appropriate shelter and facilities. I have therefore taken account of the Countryside Commission publication 'Horses in the Countryside'. In this particular case there would also be a benefit of separating the stables and horse activities from the residential use of the caravan site in order to protect the children who live there and play outside. These are all benefits that weigh in favour of the appeal scheme.
16. However, apart from the deposited material it seems that the Council would have no objection to just the stables, a riding arena and an area for loading/unloading and turning a horse trailer. All of the above benefits could therefore be achieved by an alternative scheme which could be pursued by the appellants in the future. As such, I attach little weight to those benefits now. I can thus see no basis to the claim that the appellants have been treated unfairly or any differently from any other applicants.

#### *Green Belt Balance*

17. The NPPF requires that substantial weight is given to any harm to the Green Belt. None of the other considerations put forward in this case, either individually or collectively, are sufficient to clearly outweigh the harm to the Green Belt. Therefore the proposal has not been justified on the basis of very special circumstances.

#### **Conclusion**

18. Consequently it is concluded that the appeal should be dismissed.

*Gareth Symons*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Philip Brown	Philip Brown Associates Ltd
Mr Joseph Doherty	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr David Wigfield	Enforcement and Conservation Manager, Solihull Metropolitan Borough Council
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### INTERESTED PERSONS:

Mr Trevor Eames	Solihull Ratepayers Association
Mr Alan Scott	Solihull Ratepayers Association
Cllr Linda Brown	Solihull Metropolitan Borough Council
Mrs K Ahmad	Local Resident

## DOCUMENTS

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| Doc 1 | Letter dated 21 March 2013 from Solihull Ratepayers Association to the Planning Inspectorate                           |
| Doc 2 | Email dated 21 March 2013 with above letter attached from Solihull Ratepayers Association to the Planning Inspectorate |