

**PLANNING
COMMITTEE**

24th May 2023

Planning Application 22/00915/FUL

Retrospective application for the change of use from agricultural land to Equine (Sui Generis)

Old Yarr, Blaze Lane, Astwood Bank, Redditch, Worcestershire, B96 6QA

**Applicant: Mrs Julie Millard
Ward: Astwood Bank And Feckenham Ward**

(see additional papers for site plan)

The case officer of this application is Sarah Hazlewood, Planning Officer (DM), who can be contacted on Tel: 01527881720 Email: sarah.hazlewood@bromsgroveandredditch.gov.uk for more information.

Site Description

The site comprises land surrounding the dwelling known as Old Yarr, which is on the northern side of Blaze Lane and bounded on the west by Clayfields. The site is in open countryside and within the designated Green Belt. The Swans and Wixon Brooks runs through the wider application site. Land is also owned by the applicant on the south side of Blaze Lane, however this land is not part of the application site.

Proposal Description

The application seeks retrospective approval for the use of agricultural land as equestrian land. No operational development is proposed as part of this application.

Relevant Policies

Borough of Redditch Local Plan No.4

Policy 8 Green Belt

Policy 16 Natural Environment

Others

National Planning Policy Framework

Relevant Planning History

2013/288/CPE	Application for a Certificate of Lawfulness for an existing use - Swimming pool timber frame enclosure	Approved	07.02.2014
2013/290/COU	Retrospective application to convert existing (unauthorised) live/work unit to	Approved	23.10.2014

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

	domestic dwelling	
22/00916/FUL	Retrospective application for an equine/agricultural store.	Pending consideration
22/00917/FUL	Retrospective application for a garage for 5 no. vehicles.	Pending consideration
22/00918/FUL	Retrospective application for a menage and removal of floodlighting.	Pending consideration
22/00919/CPE	Use of the land for siting a mobile home for use ancillary to the main dwelling	Pending consideration
22/00929/FUL	Retrospective application for a stable block.	Pending consideration
22/01562/FUL	Retrospective application for a tractor store and manure clamps	Pending consideration
22/01563/FUL	Retrospective application for temporary permission for children's play equipment	Pending consideration
22/01564/FUL	Retrospective application for a Horticultural/Agricultural Store	Pending consideration
22/01565/FUL	Retrospective application for an Agricultural Store	Pending consideration
22/01566/FUL	Retrospective application for the erection of a Residential Dwelling	Pending consideration
22/01567/FUL	Retrospective application for a Horse Walker	Pending consideration

PLANNING COMMITTEE

Consultations

Feckenham Parish Council

Feckenham Parish Council's Objection to
Retrospective application for the change of use from agricultural land to Equine (Sui Generis) | Old Yarr Blaze Lane Astwood Bank Redditch Worcestershire B96 6QA -
22/00915/FUL |

This application is yet another example of the failure of an applicant / developer to comply with planning legislation and submit the proposals to the LPA for consideration prior to commencing works. In particular the policies of the Borough Council, and the N.P.P.F, in relation to proposals in the green belt. The approach appears to be "I'll build what I like and then apply retrospectively, as RBC will not enforce action against me", To grant permission for this change of use would "fly in the face" of the green belt policies of the Borough Council, and the NPPF.

The question that should be raised is, "would an application for this use have been granted if submitted prior to the works being undertaken and completed".

Historically, our experience is that applications such as this, when submitted prior to works being undertaken, are difficult, and rarely supported by case officers.

The applicant relies on several points within the policies of R.B.C. and the N.P.P.F to try and justify the retrospective application, by means of exceptions allowed in the NPPF

a) buildings for agriculture and forestry

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;'...

This is not an application for agriculture or forestry, it is an application for a change of use, for the use benefit of the applicant. The land is quite clearly not in agricultural use at the time of the application, and is being used unlawfully for that purposes of equine housing and exercise.

This is not an application for leisure use, and would cause significant detrimental to the openness of the green belt

The proposed change of use would create is disproportionate development on the land in addition to the original dwelling

The proposal is not for the replacement of an existing building

PLANNING COMMITTEE

Paragraph 137 of the NPPF states that ... 'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'... Paragraph 138 of the NPPF defines the five purposes of the Green Belt

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

This application, together with the additional parallel applications comes within the category of "unrestricted sprawl ", of development in the green belt.

The application fails to comply with the "safeguarding" of the countryside from encroachment

The application is not for the "recycling of derelict and other urban land.

There are no "exceptional" reasons for this application, it is simply unlawful development for the use of the applicant. There is no public gain, and there are serious detrimental effects on the openness of the green belt.

This application is within the designated green belt and the relevant policies regarding such is set out below

R.B.C. Policy 8 Green Belt

8.1 Designated Green Belt benefits from protection through national planning policy (the NPPF) meaning it will be protected from inappropriate development. The preparation of this Plan has led to the removal of some land from the previously designated Green Belt. Continued protection of the Green Belt can contribute to the Vision and Objectives of this Plan for the Borough to have a high quality rural environment and to protect, promote enhance the quality of the Borough's landscape.

Policy 8 8.2 The designated Green Belt, located predominantly in the south west of the Borough is identified on the Policies Map. The exceptional circumstances required to amend the Green Belt Boundary have been demonstrated through the preparation of the Borough of Redditch Local Plan No.4.

8.3 Applications for development in the Green Belt will be determined in line with national planning guidance on Green Belts and other relevant policies within the development plan.

Reasoned Justification

8.4 The Borough's Green Belt boundary was originally defined by the Borough of Redditch Local Plan No.2 (adopted 1986) and was maintained in the Borough of Redditch Local Plan No.3. The preparation of the Borough of Redditch Local Plan No.4 and associated evidence has justified the removal of certain sites from the previously

PLANNING COMMITTEE

designated Green Belt. Reference should be made to the Redditch Green Belt Study for the location of land removed from the Green Belt and the BORLP4 Policies Map for the extent of the revised Green Belt boundary.

8.5 Inappropriate development is, by definition, harmful to the Green Belt (NPPF para 87). Applicants will be required to demonstrate 'very special circumstances' to justify their proposal. New buildings in the Green Belt will be considered inappropriate unless they are for a purpose, defined in the NPPF, as not inappropriate in Green Belt (paragraphs 89 and 90). Specifically, providing the openness of the Green Belt and the purposes of including land in the Green Belt are not compromised, appropriate facilities for outdoor sport and recreation may include facilities such as small changing rooms or unobtrusive spectator accommodation for outdoor sport, or small stables for outdoor sport and outdoor recreation.

3.2 Extensions in the Green Belt

3.2.1 Extensions in the Green Belt will be assessed against Policy 8 of BORLP4 which complements the NPPF

The extension must also meet the following size requirements:

Extensions to existing residential dwellings up to a maximum of 40% increase of the original dwelling or increases up to a maximum total floor space of 140m² ('original' dwelling plus extension(s)) provide that this scale of development has no adverse impact on the openness of the Green Belt

3.2.2 For the assessment of residential extensions in the Green Belt the above requirement is divided in to two separate elements:

- i) Either the extension is considered under the first part of the requirement - a maximum 40% increase of the original dwelling; OR*
- ii) The total floor space increases to a maximum of 140m² made of the original floor space of the dwelling plus the floor space of the proposed extension.*

3.2.3 In the same way that a 'proportionate addition' is not defined in the NPPF, there is not a definitive guide to how a 40% increase should be calculated. It can be calculated either as floor space or volume.

3.2.4 All measurements must be taken externally.

3.2.5 An assessment to consider the impact of the proposal on the openness of the Green Belt can be undertaken in a number of ways. Generally, openness is considered to be the absence of buildings and development. However, positioning, mass, height and topography can all have an impact on this; in addition openness is a wider concept than that of the visual impact of the development on the Green Belt.

Paragraph 137 of the NPPF states that ... 'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'... Paragraph 138 of the NPPF defines the five purposes of the Green Belt

PLANNING COMMITTEE

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

Paragraph 149 of the NPPF outlines ... 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

Exceptions to this are:

- a) buildings for agriculture and forestry*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;'*...

Worcestershire County Council Countryside Service

The legal routes of Feckenham parish footpaths: FH-634, FH-635, FH-638, FH-639 & FH-640 are potentially affected by this proposal: see illustrative map attached to the initial response (this is an extract of the Definitive Map for Worcestershire which is accessible to the public via: Countryside (worcestershire.gov.uk). In July 2022 this office submitted an objection because none of the Public Rights of Way were marked on the associated plans nor mentioned in the 'Planning Statement' document. Thus, we were unsure if the applicant was aware of the Public Rights of Way which might lead to inadvertent obstruction. The applicant has since provided an amended site plan which shows the Public Rights of Way. Thus, I can remove my objection on the understanding that the applicant is aware of the legal routes and any obstruction is an offence without a formal closure. We have no objection to the proposal if the applicant notes the above and observes their general obligations to Public Rights of Way.

Public Consultation Response

The application was publicised in the Redditch Standard 22.07.22 which expired 08.08.22
A site noticed was displayed at the site 13.07.22 which expired 06.08.22

No public comments have been received.

Assessment of Proposal

The site lies in the Green Belt. Policy 8 of the Borough of Redditch Local Plan No 4 (BoRLP) states that applications for development in the Green Belt will be determined in

PLANNING COMMITTEE

line with national planning guidance on Green Belts and other relevant policies in the development plan.

The National Planning Policy Framework (NPPF) at paragraph 150 sets out a closed list of development (where it does not relate to the construction of buildings) which is not inappropriate development in the Green Belt provided that openness is preserved, and the development does not conflict with the purposes of including land within in.

At paragraph 150(e) material changes in the use of land are one such form of development which can be considered not inappropriate. This application seeks approval for the change of use of land from agricultural to equestrian. No operational development is proposed as part of this application and therefore it is considered that the openness of the Green Belt will be preserved. Furthermore, having regard to the purposes of including land within the Green Belt as set out at paragraph 138 of the NPPF it is considered that the development does not conflict with any of these purposes.

Whilst the frustration of the Parish Council is noted with respect to the retrospective nature of the application, it has been assessed on its merits having regard to policies within the development plan and the NPPF.

With respect to conditions, as the application is retrospective, it is not necessary to include a time limit for the commencement of development. Other than a condition approving the plans submitted with the application no other conditions are considered necessary.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be GRANTED, subject to the condition summarised below:

1. The development hereby approved shall be carried out in accordance with the following plans and drawings:

2211-6c total land ownership location plan

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

Informatives:

1. The applicant should note their general obligations to Public Rights of Way:

- The safety of the public must be ensured at all times.
- No disturbance of, or change to, the surface of the paths, or part thereof, should be carried out without our written consent.
- No diminution of the width of the rights of way available for use by the public.

PLANNING COMMITTEE

- Building materials must not be stored on the rights of way.
- Vehicle movements and parking to be arranged so as not to unreasonably interfere with the public's use of the rights of way.
- No additional barriers are to be placed across the rights of way. No stile, gate, fence or other structure should be created on, or across, a public right of way without written consent of the Highway Authority

2. The applicant should be aware that, under section 34 of the Road Traffic Act 1988, any person who, without lawful authority, drives a motor vehicle on a public right of way commits an offence. The applicant should make themselves satisfied that they, and anyone else who may use public rights of way for private vehicular access in connection with the development, has a right to do so.

Procedural matters

This application is reported to Planning Committee for determination because the application is for major development, an objection has been received from the Parish council and the recommendation is for approval. As such the application falls outside the scheme of delegation to Officers.