
Appeal Decision

Site visit made on 17 October 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 25 October 2016

Appeal Ref: APP/W4325/W/16/3154947

Land East of Hillbark Road, Frankby, Wirral CH48 1NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Shudall against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/16/00098, dated 15 January 2016, was refused by notice dated 17 March 2016.
 - The application sought planning permission for erection of an agricultural barn and a horse manege with flood lighting without complying with a condition attached to planning permission Ref APP/14/00919, dated 25 September 2014.
 - The condition in dispute is No 8 which states that: The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 21 July 2014 and listed as follows: Drwg No PWH 14 HRBM 2 (dated 08.07.2014).
 - The reason given for the condition is: "For the avoidance of doubt and to define the permission".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal on the planning application form is "re-location of agricultural barn as an amendment to planning application APP/14/00919 approved 25.9.14." This is not a definition of development. However, it is clear that the proposal is more properly described as set out in the banner heading above and I will deal with the appeal as being in respect of an application under section 73 of the Town and Country Planning Act 1990.
 3. The national Planning Practice Guidance says that decision makers must only consider the disputed condition when dealing with proposals for developing land without complying with a condition subject to which planning permission has been granted. Where an application/appeal under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.
 4. The planning permission Ref APP/14/00919 (the 2014 permission) has been implemented although the agricultural barn has not been constructed.
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5. A plan titled "Plan 2" was submitted with the appeal documents. However, the parties have agreed this has no relevance to the appeal before me and I have therefore disregarded it.

Main Issue

6. The main issue is whether Condition No 8 of the 2014 permission is necessary and reasonable in order to protect the openness of the Merseyside Green Belt and to safeguard the character and appearance of the area.

Reasons

7. The appeal site is within the Merseyside Green Belt. The Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework (the Framework) explains that development in the Green Belt should be regarded as inappropriate unless it falls within the exceptions listed in Paragraph 89.
8. The exceptions set out in Paragraph 89 include buildings for agriculture. Facilities for outdoor recreation can be exceptions as long as the openness of the Green Belt is preserved and the proposals do not conflict with the purposes of including land within it. Policy GB2 of the Wirral Unitary Development Plan 2000 (the UDP) seeks to protect the Green Belt from inappropriate development. In this respect, although of some age, Policy GB2 broadly conforms to the principles of the Framework.
9. The proposed barn would be sited in a field used for grazing of horses and other animals. The construction of a barn in such circumstances would not be inappropriate development in the Green Belt. The field is in a rural setting to the south of Frankby village. It has an access from Hillbark Road and alternative historic access rights from the centre of Frankby Village via The Nook (The Nook access).
10. The stable block and manege have been constructed in the north-eastern corner of the field by The Nook access, some 200m from the access onto Hillbark Road. The land at the northern end of the field is several metres higher than Hillbark Road and gradually slopes down towards road level at the southern end. The field rises towards its centre from the south-west then falls towards the north-eastern corner. In the south-west corner is a tree belt separating the open field from the Farmers Arms Public House. The east boundary of the field has hedges and several trees. Adjacent to the east boundary hedge is a pond within which grows a group of willow trees. Given the topography and setting of the land I conclude that a condition which limits the barn to an approved position is necessary and reasonable in order to ensure that it would be sited so as to protect the openness of the Green Belt and the character and appearance of the area.
11. The 2014 permission establishes the principle of a barn of a similar footprint and eaves height at the lower part of the field close to the tree belt. Although parts of it might be seen across the Hillbark Road access it would be visually unobtrusive. The appellant is proposing that development should be carried out in accordance with a different plan to that approved by the 2014 permission namely Drwg No PHW 15 HRB 1 dated 24 September 2015.

12. The barn footprint would be some 12m by 9m and the ridge would be some 5.7m high. The proposed location would be close to the eastern boundary of the field between the manege and the pond but some distance from the stables. It would not be at the highest point in the field, and it would be partially screened by the willow trees and the hedge, and to a small extent by land levels. Even so, due to its position and height the barn would be unduly prominent in the landscape and would extend the built form further into the open countryside contrary to the purposes of the Green Belt and having an unacceptable effect on the character and appearance of the rural area.
13. The appellant states that materials more sympathetic to the rural landscape would be used for the proposed barn. However, the 2014 permission required approval of external materials for the approved barn to ensure a satisfactory appearance and therefore I consider this adds little in favour of the proposal.
14. There would be some practical and managerial advantages in siting the barn closer to the stables and manege in terms of proximity to a nearby field gate; reducing cross field traffic and the need for a surfaced track within the field; storage of hay reducing the need for bale wrapping and off-site vehicle movements; and closer supervision in the interests of safety and security. These matters weigh in favour of the proposal but there may be other ways in which these benefits could be achieved that would have a lesser effect on the character and appearance of the area and I therefore give them limited weight.
15. Openness can be regarded as the absence of built development. The proposed barn would be of the same footprint and eaves as the approved barn but the ridge would be higher. Accordingly as a replacement it would have only a marginally greater effect on the amount of building in the Green Belt compared with the barn approved under the 2014 permission. However, allowing the appeal would create a second permission. Without any formal mechanism for preventing the construction of the barn approved under the 2014 permission, such as deed under section 106 of the Town and Country Planning Act 1990, the proposal could result in the construction of two barns which would have a detrimental effect on the openness of the Green Belt.

Other Matters

16. Third parties have raised concerns about the effect of the proposed development on the character and appearance of the Frankby Conservation Area particularly in respect of traffic and the use of The Nook. Part of The Nook is within the Conservation Area but the appeal site is not and the proposed barn would be sited some distance from its boundaries. The Nook is used as access for agricultural vehicles, houses and livery stables. I also observed commercial vehicles parked at a site close to the appeal site across The Nook. The access rights along The Nook can be used irrespective of the availability of an access onto Hillbark Road. The maintenance of The Nook and any obstruction of it are private matters for the landowners and those who have access rights over it. Accordingly any traffic associated with the proposed barn would have a neutral effect on the character and/or appearance of the Conservation Area.

Conclusion

17. For the reasons set out above, and taking into account all other relevant matters raised, I conclude that Condition No 8 of the 2014 permission is

necessary and reasonable in order to protect the openness of the Merseyside Green Belt and to safeguard the character and appearance of the area. The appeal should not succeed.

SDHarley

Inspector