
Appeal Decision

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 14 February 2017

Appeal Ref: APP/X0415/C/16/3158707

Whitehorn's Farm, Ashley Green Road, Chesham

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by John Stanley against an enforcement notice issued by Chiltern District Council.
 - The enforcement notice was issued on 22 August 2016.
 - The breach of planning control as alleged in the notice is the erection of a detached building identified on Plans 1 and 2 attached to the notice.
 - The requirements of the notice are (1) to demolish or dismantle the building and (2) make good the ground from where the building was removed, including removing from the land all hardstanding upon which the building has been constructed and thereafter 'rip' that part of the land to alleviate compression caused by the hardstanding, as identified on the plans attached to the notice.
 - The period for compliance with the requirements is 6 months for (1) and 7 months for (2).
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground (g) and the enforcement notice is varied by the deletion of 6 and 7 months and the substitution of 9 months as the periods for compliance. Subject to this variation the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the Framework and development plan policy.
 - The effect of the development on openness of the Green Belt.
 - The effect of the development on the character and appearance of the surrounding area, in particular the Area of Outstanding Natural Beauty.
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. The National Planning Policy Framework [the Framework] notes that the construction of new buildings in the Green Belt should be regarded as being inappropriate, unless the building is for agriculture.
4. The development plan includes the Core Strategy for Chiltern District [CS] and the Chiltern District Local plan [LP]. LP Policy GB2 indicates that most development in the Green Belt is inappropriate, but notes as an exception planning permission may be given for new buildings reasonably required for agriculture. To my mind this has very similar aims to the Framework and is consistent with it. LP Policy **GB27** indicates permission will be given for new agricultural buildings provided, amongst other things, that it has been demonstrated that it is reasonably required for the functioning of the agricultural enterprise on the unit where it would be located. Again this is consistent with the Framework as it is only ensuring that the building is for agricultural use. Any development will be carefully controlled to ensure that impact on the landscape character is kept to the minimum.
5. The building has an 'L' shaped plan form and is divided internally at the corner, although the roof carries over both parts. The roof drops down a small amount at the end of the return. The building replaced other agricultural buildings on the site, but many of the original buildings currently remain, with some still in use. The new building is larger than the replaced buildings, particularly in terms of height and resulting bulk. The appellant has put forward an appraisal to justify the construction of an agricultural building for cattle, associated storage and for farm equipment. Looking at the original buildings that remain, I acknowledge that these are generally in poor condition and expect that would be the same for any already removed.
6. The appellant has had a report prepared explaining the need for the building, and I acknowledge much of that would be related to agriculture use, as does the council's agricultural consultant. However, the council's consultant has some concern over the expected use of the whole building, there being personal storage of carts noted on a site visit. These have now been removed. They also question the need for a building of this height. There were four tractors within the building, which again to my mind have not been adequately justified. However, even if they were, I do not see a need for the height of the building for this part of the proposed use. Overall, I do not see that the building of this bulk as constructed has been properly justified for agricultural use and therefore this would not be appropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

7. The new building, because of its height and bulk, has a great impact on the openness of the Green Belt. The building is significantly larger than those replaced, so even allowing for their demolition the openness of the Green Belt has been substantially impacted upon. The Government attaches great importance to Green Belts. The Framework notes that the essential characteristics of Green Belts are their openness and their permanence.

Character and Appearance

8. CS Policy **CS19** seeks a sustainable rural economy and supporting proposals for agricultural diversification where it benefits the local community and does not conflict with policies relating to conserving and enhancing the natural beauty of the AONB and maintaining the openness of the Green Belt. CS Policy CS19 requires all new development to be of a high standard of design that reflects and respects the character of the surrounding area and those features that contribute to local distinctiveness and in accordance with the Chilterns Buildings Design Guide. New buildings must be well integrated with, and complement, neighbouring buildings and the local area in terms of scale and layout. Development must maintain and improve local character and the natural environment.
9. CS Policy CS22 notes that in the Chilterns Area of Outstanding Natural Beauty in principle proposals must conserve and enhance the special landscape character and distinctiveness of the Chilterns AONB, safeguarding views into and out of the area. Proposals must be in accordance with the Chilterns Buildings Design Guide. LP Policy LSQ1 has similar aims.
10. While there is a general expectation that agricultural buildings will be relatively utilitarian in their form and appearance, there are locations, such as Areas of Outstanding Natural Beauty, that may warrant more attention to design and detailing, even where an agricultural need is demonstrated. This appeal site is not only in an Area of Outstanding Natural Beauty, but in a very prominent position towards the top of a hill with distant views to and from it and close to two public rights of way. In my opinion any development here, whether replacing existing buildings or not requires careful consideration in terms of its location, design and use of materials in line with CS Policies CS19 and CS22 and the design guidance.
11. This building has been located approximately on the site of previous buildings. This may be acceptable if the new building is of a similar size, but because of the substantial change in bulk and height, careful consideration is necessary and perhaps some change and variation in height of the building is necessary or more than one building provided with variation in the design. What is very poor is the resulting scale and bulk of the building and bland and uniform appearance that results in an unacceptable building in a prominent position in the AONB.
12. It is suggested the sheeting to the side is only necessary because of the wind. Whether or not that is the case, and with or without the side cladding the building would still appear as a large, obtrusive, utilitarian structure, unacceptable in this location. It does not conserve or enhance the special landscape character of the Chilterns Area of Outstanding Natural Beauty. The Framework indicates that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to landscape and scenic beauty.
13. The Chilterns Design Guide provides guidance on new buildings and is referred to in the Council's policies. It notes new agricultural buildings should be well sited and in sympathy with their surroundings, avoiding sensitive locations, isolated ridgetops and prominent sites. More complex designs should be considered to improve the appearance of buildings and to use traditional

building materials. Good and bad practice is highlighted. This is good advice and was not followed.

14. Even if I had found that the building was proven to be for agricultural use in the first main issue and was not 'inappropriate' development in the Green Belt, it would still be a wholly unacceptable form of development and conflict with CS Policies CS19 and CS22 and the appeal would be dismissed on this alone.
15. Having smaller individual buildings has much less impact than the large, bulky, bland building produced.

Planning Balance and Very Special Circumstances

16. Substantial weight is given to 'inappropriateness' and to impact on openness and great weight is given to the harm to the Area of Outstanding Natural Beauty.
17. I appreciate that there are considerable benefits in providing rural industry and enabling agricultural uses. However, I do not consider that the benefits would overcome the harm in relation to the impact on the AONB by itself and the weight from the impact on the Green Belt reinforces that view.

Ground (g)

18. I acknowledge the use that the appellant is making of the building and in particular the livestock housed. It could take a considerable time to arrange alternative accommodation. However, I do not think 12 months requested is necessary, but that 9 months is a reasonable period for compliance with the notice. The appeal succeeds to this limited extent and the time for compliance will be changed to 9 months for all steps.

Graham Dudley

Inspector