
Appeal Decision

Site visit made on 14 February 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 1 March 2017

Appeal Ref: APP/K0425/C/16/3151228

Berry Farm, Mudds Bank, Wycombe Road, Stokenchurch Bucks HP14 3RS

- 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 Mr Max Roberts against an enforcement notice issued by Wycombe District Council.
- The enforcement notice was issued on 22 April 2016.
- The breach of planning control as alleged in the notice is: the erection of four x polytunnels, a storage shed and 2m high fencing.
- The requirements of the notice are as follows:
 1. Remove the 4 polytunnels (in the area outlined in blue on the attached plan) from the land.
 2. Remove the storage shed (outlined in pink on the attached plan) and all associated building materials from the Land.
 3. Remove the fencing (marked green on the attached plan) from the land: and
 4. Remove from the land all debris and materials resulting from compliance with steps 1, 2 and 3.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on grounds (a) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.

Application for Costs: An application for a partial award of costs is made by Mr Max Roberts against Wycombe District Council.
This is the subject of a separate decision.

Decision

1. The appeal is allowed to a limited degree on ground (g) only. Otherwise the appeal is dismissed. See Formal decision below.

Background information and matters of clarification

2. The appeal site, known as Berry Farm, is one of several plots formed in 2011 from a large area of open agricultural land to the east of Stokenchurch and is approximately 1ha in area. It lies to the north of the A40 on relatively high land near the edge of the Chiltern escarpment and is accessed via an unmade track from a lay-by adjacent to the road. It is within the Green Belt (GB) and The Chilterns Area of Outstanding Natural Beauty (CAONB). A public footpath follows the track and the ridge line and part of it runs along the northern boundary of the site and the larger field.

3. The site is the subject of two 'Article 4 Directions'. The first was made in 1959 and this brought into planning control, anywhere within the County, any development comprising buildings for poultry production which exceed a specified area or height. The second was made in 2011 and this was due to the Council's

concerns regarding the sub-division and sales of the separate plots of land. This Direction removes permitted development rights for the erection of walls, fences and other means of enclosure on the land, or for temporary changes of use on the sub-divided plots of land.

4. During my site visit I was able to view the alleged breaches of planning control from both near (along the public footpath) and distant (from the A40 lay-by and access track) viewpoints. Close to the northern boundary I noted two small half-round metal structured polytunnels (one covered and one uncovered); two timber greenhouse-shaped polytunnels (again one covered and one uncovered); a timber storage shed and a section of timber fencing. There was also a small touring caravan; a car, a portable toilet and several mounds of what looked like waste building/excavated material to the west of the timber shed. In the middle and towards the south were various planting poles and protected new plants in short sections of what looked like plastic tubing.

5. The site has a detailed planning history and is the subject of both temporary and permanent 'Stop Notices' relating to the depositing of waste on the site. The most relevant matters relating to this appeal, against the enforcement notice, are as follows: under 14/05485/AGI – notification for erection of an agricultural building (further details submitted as part of later application); under 14/06011/FUL – erection of agricultural building; under 14/06472/FUL – construction of fence posts to support berry bushes and access track.

6. The last two applications above were withdrawn and 2 new applications were submitted in 2015. The first (15/05587/FUL) was again for an agricultural storage building (for fruit, vegetable crops, agricultural machinery and tools). The second (15/05890/FUL) was for the erection of two polytunnels, berry posts and a farm track (part retrospective). Both of these applications were refused. On appeal, however (refs APP/K0425/W/15/3139573 & 3139588) although the first appeal was dismissed, the second relating to the two polytunnels, berry posts and a farm track (part retrospective) was allowed.

7. Under application 15/08/338/FUL, permission was refused for the retention of four polytunnels, a caravan and a storage shed. The Council then refers to application 16/06005/FUL, again for the erection of an agricultural building for storing fruit, vegetables machinery and tools, rest room shower and WC. In the Council's appeal statement this is referred to as 'pending consideration'.

8. From all of the above it seems clear to me, therefore, that only the two polytunnels, the berry posts and the farm track all granted approval on appeal, would be lawful. The matters enforced against are not lawful and I go on below to consider whether or not planning permission should be granted for the matters set out in the allegation to the notice. I am not considering the latest, pending, application referred to above but have considered the matter as a material consideration in the case before me.

The Appeal on ground (a)

The main issues

9. The main issues relate to whether the unauthorised developments carried out are inappropriate within the Green Belt; whether or not there is an agricultural justification for the retention of the developments and the effect of the developments on the character and appearance of this part of the CAONB.

10. It is accepted by the Council and the previous Inspector that agricultural development of the land would accord, in principle, with both national (in the

National Planning Policy Framework – NPPF) and the Adopted Wycombe District Local Plan (WDLP). However Policy GB2 of the WDLP does not fully comply with the NPPF since it states that such development must retain the openness of the Green Belt. In the NPPF paragraph 89 lists development that does not constitute 'inappropriate development' and this includes the erection of buildings for agriculture. As the previous Inspector indicated, within this category of buildings, there is no specific test on whether the development has an effect on the openness of the Green Belt.

11. In this case, therefore, and irrespective of the fact that the works carried out have had an effect on the openness of the Green Belt, the development of 4 polytunnels and an agricultural storage building would not, in principle, be inappropriate development. In addition any fencing required as part of the works could also be said to be required in connection with the agricultural use of the land. I turn to the specific effects of the developments as carried out below but, in conclusion on the first issue, I consider that the development enforced against does not constitute inappropriate development within the Green Belt.

12. Again, as indicated by the previous Inspector, the question of very special circumstances does not arise. There is no harm in principle, through inappropriateness and the works carried out must be assessed on their merits and in relation to any other impact that they have had on the character and appearance of the CAONB. Before considering the merits I deal with the second issue.

Whether or not there is an agricultural justification for the development

13. There is clearly an agricultural justification for polytunnels on the land. The previous Inspector found that to be the case in relation to the two polytunnels before him and I agree with his reasoning. Furthermore the Council's own Agricultural Consultant has concluded that there is a '*storage requirement of 57m² on the holding*'. This is more than twice the size of the shed which is the subject of the enforcement notice. I have no reason to question the Council's findings regarding the necessary storage requirement. Again, therefore, in principle, I consider that there is an agricultural justification for polytunnels and storage facilities on the land.

The specific effects of the works on the character and appearance of the CAONB

14. Having seen the four polytunnels, the storage building and the fencing in place, I share the Council's concerns about the visual harm caused to this part of the GB and the CAONB. When seen from the A40 lay-by, the site is perceived as a 'hotch-potch' of obtrusive, untidy and visually harmful elements. Rather than being seen against the background of the field, hedge and woodland beyond, they stand out as alien intrusions into this attractive landscape. From a distance the two timber polytunnels and the shed are the most noticeable.

15. As one approaches the site along the track from the south, the shed dominates the skyline and the fencing and polytunnels are seen stretching across the northern boundary. Even though all but the shed are generally lower than the hedge, the overall visual effect is one of a ramshackle and motley grouping, more akin to a scrapyards than a small agricultural holding in the open countryside. The shed, in particular, with its mono-pitched roof and light-coloured walls is most strident. In my view it is of very poor design and the fencing adjacent to the caravan exacerbates the cluttered appearance of this part of the site.

16. When walking along the public footpath to the north the hedge does manage to screen the site to some extent, but there are openings and gaps in the hedge

which result in the untidy site being seen as one walks east or west. I acknowledge that the least obtrusive elements are the two half-round frame polytunnels and that the siting of the caravan is not subject to the enforcement notice. However, it is the combination of all of the elements enforced against which significantly detract from the attractive character and appearance of this part of the CAONB.

17. Policy L1 of the WDLP indicates that the prime purpose of the AONB designation is the conservation of the natural beauty of the landscape. This is entirely consistent with section 11 of the NPPF which seeks to conserve and enhance the landscape and the scenic beauty of nationally designated areas such as AONBs. In my view the unauthorised development on this site does not conserve the landscape. It completely jars against the gently undulating fields and the dispersed woodlands in this part of the CAONB, which is referred to as the 'Stokenchurch Settled Plateau' (SSP). I consider that the development of the 4 polytunnels, the shed and the fencing are contrary to both local and national policies which seek to protect the countryside and AONBs.

18. I also find the works to be contrary to section 7 of the NPPF which requires good design. As indicated above I have found that the shed is very poorly designed. The NPPF indicates that permission should be refused for development which is of poor design and which fails to take opportunities available for improving the character and quality of an area and the way it functions.

19. In conclusion on this ground of appeal, therefore I do not consider that planning permission should be granted for the retention of the 4 polytunnels, the storage shed and the fencing. The appeal fails on ground (a).

Other Matters

20. In reaching my conclusions, I have taken into account the extant permission for the two polytunnels and the 2016 application for a storage shed. However, in granting permission for the two polytunnels the previous Inspector made it quite clear that the two new structures would be relatively low and would be seen against the backdrop of the hedge and field and the woodland beyond. I agree that this would be the case and that the two structures would be seen as simple agricultural facilities which would not be prominent in this sensitive landscape.

21. For the reasons set out above, the developments enforced against do anything but blend or merge into the landscape. The group of structures, including the fencing, are certainly not seen against the backdrop of the field, hedge and woodland. Instead they are perceived as being prominent and forward of the hedgeline. I do not consider that they can be compared to the simple scheme approved by the previous Inspector.

22. I accept that a suitably designed and sited shed would be appropriate for agricultural use on the site. The Council appears to accept that this would be the case. However, such a scheme is not before me and is a matter for the Appellant and the Council to resolve.

The Appeal on ground (g)

23. In support of this ground, the Appellant requests that the compliance period be increased by 3 months. Clearly the December 2016 date has long passed but in the overall circumstances of this case, I consider that a 6 month period is not unreasonable. This would give the Appellant and the Council time to liaise on the storage building and would also assist in a phased removal of the unauthorised developments, whilst building the newly approved polytunnels.

24. The appeal succeeds to this limited degree, therefore, on ground (g) and I will vary the enforcement notice accordingly.

Formal Decision

25. The appeal succeeds on ground (g) only and I direct that the enforcement notice be varied by deleting the figure '3' in part 6 of the notice (TIME FOR COMPLIANCE) and by substituting therfor the figure '6'.

26. Otherwise the appeal is dismissed and the enforcement notice is upheld as varied. Planning permission is refused for the application deemed to have been made under section 177(5) of the Act.

Anthony J Wharton

Inspector