
Appeal Decision

Site visit made on 13 March 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 7 April 2017

Appeal Ref: APP/B1740/W/16/3165941

Unit 2, Ferndene Farm, Bashley Cross Road, New Milton, Hants BH25 5SY

- 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 Mr Ian Geary against the decision of New Forest District Council.
 - The application Ref 16/10430, dated 25 March 2016, was refused by notice dated 25 May 2016.
 - The development proposed is erection of replacement storage building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A storage building had been constructed on site at the time of my site visit. For the avoidance of doubt, my determination is based upon the application plans and not the building as seen.

Main Issues

3. The Council has accepted the appellant's representations related to its second refusal reason that the development would not represent a scheme for farm diversification. This is on the basis that the policies referred to are positively worded and so do not specifically resist the appeal proposal.
4. Accordingly, the remaining main issues are:
 - a) whether the proposal amounts to inappropriate development in the Green Belt;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) if the proposal would amount to inappropriate development, 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

Policy context

5. The National Planning Policy Framework (the Framework) sets out (at paragraph 79) that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework also

stipulates that local planning authorities should give substantial weight to any harm to the Green Belt in considering planning applications.

6. The Framework outlines (at paragraph 89) that the construction of new buildings in the Green Belt should be regarded as inappropriate. Exceptions stated to this include buildings for agriculture or forestry; the replacement of a building, provided the building is in the same use and not materially larger than the one it replaces, and limited infilling or the partial or complete redevelopment of previously developed sites, provided that development proposed would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
7. Policy CS10 of the Council's Core Strategy – New Forest District Outside the National Park (adopted October 2009) (CS) states that sustainable development will be achieved, amongst other things, through retaining and supporting the Green Belt. Local Policy does not though define inappropriate development for the purposes of Green Belt and the Council therefore relies on the definition contained in the Framework.
8. The appellant takes the view that the presumption in favour of sustainable development contained in paragraph 14 in the Framework takes precedence over the Framework's policy resisting inappropriate development in the Green Belt. However, paragraph 14 indicates that that the presumption in favour of sustainable development contains a proviso where specific policies in the Framework indicate development should be restricted. In this regard, footnote 9 to paragraph 14 specifically references policies related to land designated as Green Belt. Accordingly, whilst the sustainability credentials of the proposal are due appropriate consideration (and I return to this below), it is not correct that protection for Green Belt land is superseded by the presumption in favour of sustainable development.

Whether inappropriate development

Background/History

9. The appeal building sits within the site of Ferndene Farm, adjacent to two poultry buildings and close to other large buildings used for a variety of purposes including commercial storage. At the time of my site visit, the appeal building appeared to be being used for the storage of vintage cars.
10. A building previously existed on the site until around the 1980s/90s. Aerial photography illustrates the existence of this previous building, which was apparently used for housing poultry.

Paragraph 89 exceptions

11. The appeal building is labelled as a 'vegetable barn' on the submitted block plan and there is some reference to the building being used for storage of a tractor. There is though no substantive evidence of it being intended for use for agriculture. Accordingly, the appeal building is not for agriculture or forestry per the first exception detailed in paragraph 89 of the Framework.
12. The fourth bullet point to paragraph 89 indicates an exception related to a replacement building. The appeal building would be in same use as a number of those surrounding which were granted permission in 2000. However, the wording of this exception, as outlined above, makes it clear that the

replacement building is required to be in the same use as the building to be replaced. On the evidence before me, the previous building on site was used for keeping poultry. The proposed storage use would not thus represent the same use as that of the previous building.

13. The appellant refers to an exception within Planning Policy Guidance 2: Green Belt (24 January 1995). However, Annex 3 to the Framework confirms that this document is no longer extant. The sixth bullet to paragraph 89 of the Framework contains though a similar exception relating to limited infilling or the partial or complete redevelopment of previously developed sites.
14. The Framework definition of previously developed land states this as land which is or was occupied by a permanent structure, including the curtilage of the developed land. However, land that is or has been occupied by agricultural or forestry buildings is specifically excluded from the definition. Based on representations that the previous building was used for poultry keeping, it would not therefore fall within the definition of previously developed land. Accordingly, this exception also would not apply.
15. Thus, I conclude on the first main issue that the proposal represents inappropriate development in the Green Belt. It would in this way conflict with the aims of the Framework and the CS relating to the protection of the Green Belt.

Openness

16. Turning then to openness, the Framework indicates that this is an essential characteristic of the Green Belt. Openness is essentially the absence of development and thus the absence of any harmful visual impact does not necessarily indicate an absence of harm as regards openness.
17. The appeal building is nestled closely amongst existing buildings of a similar size and within the built up part of the site. As such, there would be no visual harm. The building proposed is though of a large scale and substantial form of construction. As compared to the position prior to the construction of the appeal building, whereby there was no built form in place, there would be a moderate loss of openness.
18. On the second main issue then, I conclude that the proposal would have a moderately harmful effect on openness.

Other considerations

19. The proposal would meet with the aims of Policy CS10 (o) related to Green Belt protection in the sense that it would not result in settlements merging. It would make use of land which has previously been the site of a building. However, although it would not protrude onto the open part of the site, it would technically encroach into the countryside in that the countryside does not only include open areas, but also areas within developed sites. As such, the proposal would represent encroachment by built development into the countryside.
20. The wider site employs some 40 people and a number of other businesses rely on the accommodation in units to the rear of the site. The proposed development seeks to support an existing rural enterprise, in line with the aims of the Framework to support economic growth in rural areas. This is also in

accordance with local policy encouraging local employment sites and retention of location shops, along with policy in favour of seeking intensification of existing employment sites and the taking of a flexible approach to small businesses.

21. I understand that the Green Belt boundary has not been reviewed since designation and that a study has now been commissioned to review its boundaries. This does not though alter the existing designation of the appeal site. Sites have also apparently been identified within the Green Belt for housing development and a Crematorium development permitted in Green Belt adjacent to the appeal site. I do not though have details of this development in order to form a detailed comparison with the appeal proposal, which I consider on its merits. There were no objections to the proposed development and there would be no harm related to traffic generation but these are only neutral matters.
22. Taken together, these considerations offer modest weight in favour of the proposal and as such the harm by reason of inappropriateness is not clearly outweighed by other considerations.

Conclusion

23. The proposed development would be inappropriate development in the Green Belt and the Framework makes it clear that substantial weight should be accorded to any harm to the Green Belt. I have had regard to the matters cited by the appellant in support of the proposal and find that the other considerations in this case do not clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances do not exist such as to justify the development. For these reasons, I conclude that the appeal should fail.

Veronica Bond

INSPECTOR