



Appeal Decision

Site visit made on 9 October 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 02 December 2019

Appeal Ref: APP/P1805/W/19/3234201

Thornborough Farm, Redhill Road, Kings Norton, Birmingham B38 9EH

- 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 Ken Moore against the decision of Bromsgrove District Council.
 - The application Ref 18/01226/FUL dated 25 June 2018 was refused by notice dated 6 February 2019.
 - The development proposed is use of existing building, incorporating caravan to form part of building, as rest/livestock husbandry and storage facility, including office, in association with existing agricultural and equine activities.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal description refers only to the use of the existing building. However, the appellant's Statement of Case refers to the retention and use of the building and relies upon exceptions contained in national and local policy relating to new buildings. I shall therefore proceed to determine the appeal on that basis. Both parties refer to the appeal proposal as being retrospective.

Main Issues

3. The main issues are
 - Whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and relevant development plan policy;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify development.

Reasons

Whether Inappropriate Development in the Green Belt

4. The appeal site is a rectangular piece of land which is accessed from Redhill Road through an associated yard and stable buildings in the appellant's

ownership. The appeal building is behind a dwelling which fronts onto Redhill Road now known as Hazeldene.

5. The Framework identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. Exceptions include Paragraph 145 a) which refers to buildings for agriculture and forestry. Paragraph 145 b) refers to appropriate facilities for outdoor sport and outdoor recreation which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Policy BDP.4 of the Bromsgrove District Plan (the District Plan) states that development in the Green Belt is considered to be inappropriate subject to listed exceptions. Although Policy BDP15 of the District Plan is listed in the reasons for refusal, it is a general policy which refers to new buildings for equine development such as stables and field shelters although Policy BDP15.3 refers to the Green Belt inappropriate test and the need for very special circumstances. Similarly, Policy BDP.19 of the District Plan relates to design which is not part of the Council's case for refusal. I therefore find both policies BDP15 and BDP.19 of the District Plan to be of less relevance to the appeal.
8. As indicated in the appeal description, the appeal building exists and includes the caravan that was previously used in connection with the dwelling then known as Thornborough. However, the appeal site was retained by the appellant when he sold the dwelling which is now called Hazeldene.
9. The appeal building was originally just the caravan but had timber structures added to it. Although the caravan structure still forms part of the appeal building, from the outside, the building appears to be a timber clad cabin with a single pitched roof oversailing the main elements of the building.
10. Whilst, the appeal site boundary is drawn tightly around the appeal building, the appeal site is part of a wider site which as well as agricultural land includes the associated licensed yard and stables with an exercise area and also dog kennels. The appellant states that there is around 16 hectares of agricultural land and other agricultural land is rented on a seasonal basis. The description of the appeal proposal itself refers to agricultural and equine activities.
11. At paragraph 6.18 of the Statement of Case, the appellant also states that the facilities within the building provide the necessary welfare facilities for both agricultural and equine activities. The plans submitted include dimensions of the appeal building. Although further details have been supplied within an appendix within the appellant's statement, it is not clear if the existing accommodation within the caravan which includes bedrooms and a living area is to remain as part of the rest facility.
12. Nevertheless, the exception in Paragraph 145 a) refers to buildings for agriculture and forestry. Section 336(1) of the Town and Country Planning Act 1990 provides a definition of agriculture and sets out examples of agricultural

activities such as horticulture and fruit growing. The keeping of horses other than where they are put out to graze for example does not fall within the definition of agriculture. There are amongst other things, stables, an exercise area and horse boxes on the wider site and there is limited evidence before me that the equine use would fall within the definition of agriculture. The use which involves uses other than agriculture means that the appeal proposal does not fall within the exception of Paragraph 145a) as the building is not for agriculture or forestry. It is for agriculture and equine use.

13. The appellant also seeks to rely upon Paragraph 145 b) which refers to the provision of outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. Similarly, as the appellant indicates that the appeal building is to be used for both agricultural and equine use, any agricultural use falls outside the definition of outdoor recreation for the purpose of this exception. I therefore find that the appeal proposal does not fall within the exceptions relied upon. It would therefore be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm in the Green Belt.

Openness of the Green Belt

14. A fundamental aim of Green Belt policy in the Framework is to keep land permanently open. The openness of the Green Belt is clearly evident around the appeal building with extensive views of open countryside particularly to the south and west. The appellant indicates that the appeal site was formerly a tennis court used in association with Hazeldene. However, the appeal building does have a greater impact upon openness than a hard surface as it occupies three dimensional space. I note that the appeal building is to the rear of Hazeldene but nevertheless there is still be a spatial impact on openness arising from the physical bulk of a building where one did not previously exist. I do find that there would be a loss of openness and an adverse impact on the related Green Belt purpose of safeguarding the countryside from encroachment.

Other Considerations

15. The appellant does not seek to rely upon very special circumstances as he considers that the development is not inappropriate.

Other Matters

16. There are supporters of the appeal proposal as well as objectors. Supporters include users of the livery business who have used the facility and a worker at Thornborough farm who has used the caravan element including for family reasons. The location of the appeal site and limited visibility are referred to by some supporters but the location of the appeal building is not, in itself, conclusive.
17. Whilst the parties refer to what is reasonably required to meet the needs of the business enterprise and whether the appeal building is excessive, these are not matters which are relevant to the exceptions relied upon. I note there is no longer a farmhouse serving the land but there are other buildings on the wider site including the stables and the appellant refers to a lambing shed.

Although an agricultural report has been submitted by the appellant, it does not acknowledge the equine element of the appeal proposal.

18. The appellant has made comparisons with the exercise of any permitted development rights under Schedule 2, Part 6 of the General Permitted Development Order. However, that procedure would have required prior approval before construction and would have been subject to different criteria including whether buildings were 'reasonably necessary for agriculture'.

Conclusion

19. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the appeal proposal would be inappropriate development and would therefore by definition be harmful to the Green Belt. It would also result in a loss of openness, contrary to the Green Belt purpose of safeguarding the countryside from encroachment. The Framework establishes that substantial weight should be given to any harm to the Green Belt. There are no other considerations which clearly outweigh the totality of the harm. Consequently, very special circumstances necessary to justify the appeal proposal do not exist. The appeal proposal also conflicts with Policy BDP.4 of the District Plan.

20. For all the reasons given, I conclude that the appeal is dismissed.

E Griffin

INSPECTOR