
Appeal Decisions

Site visit made on 2 October 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/M2270/W/19/3234437

Four Winds Farm, Penshurst Road, Bidborough, Royal Tunbridge Wells, Kent TN3 0LL

- 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 NJ and SC Perry against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/03972/FUL, dated 7 December 2018, was refused by notice dated 4 February 2019.
 - The development proposed is for a café and farm shop.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have also dealt with another appeal (Ref: APP/M2270/W/19/3232999) for a pet cemetery on land at Four Winds Farm. Whilst the two appeal sites are within the same farm, they are separated from each other, the proposed developments are of a different nature and the reasons for refusal differ. Therefore, the other appeal is the subject of a separate decision.
3. The description above is taken from the application form. However, on the appeal form the appellant has listed, and implicitly agreed to, the description used by the Council in its refusal notice, namely "Proposed part change of use and conversion of part agricultural building into a farm shop and café". As this more accurately describes the proposal, I have determined the appeal on this basis, notwithstanding the description in the banner heading above.
4. Since the application was refused, the 2018 version of the National Planning Policy Framework (the 'Framework') was updated in February 2019. The changes made are minor and do not have a significant bearing on the matters pertaining to this appeal. References to the Framework within this decision relate to the latest version published in 2019.

Main Issues

5. The main issues with this case are:-
 - Whether the proposal would be inappropriate development within the Metropolitan Green Belt for the purposes of the Framework, having regard to the nature of the development and its effect upon the openness of the Green Belt,

- Whether the proposal would accord with local policies and national guidance with particular regard to location,
- The effect of the proposal on the character and appearance of the rural area and High Weald Area of Outstanding Natural Beauty (AONB),
- The effect of the proposal on highway safety, with particular regard to the access, and
- If the proposed development constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt issues

6. The appeal site lies within a sheep and cereal farm enterprise, adjacent to the B2176 Penshurst Road, located west of Bidborough. As it is situated beyond the built up limits of the settlement and surrounded by fields, the site is clearly in open countryside. The farm house is close to the road with several modern farm buildings to the south of it. The building the subject of the appeal is closest to the farmhouse and site access. It is a large concrete and timber boarded agricultural building, currently in use for sheep and storage of machinery and hay/straw at the time of my visit. The farm and site sit within a patchwork of fields and hedges with pockets of woodland, in an undulating landscape in a tranquil rural setting, within the High Weald AONB, which is a national designated landscape.
7. The proposal is to change part of the existing sheep shed into a farm shop and café. The farm shop and café would be created within the structure and footprint, such that the building would not be enlarged. However, changes would be made to the elevations of the building by recessing the farm shop and café under the roof to create a covered decked seating area and glazing part of the external elevations. The remaining elevations of the farm building and sheep shed would be re-clad in wood boarding, with the western and southern elevations clad in vertical black stained wood boarding with slats for ventilation for the remaining sheep shed. The café would have space for approximately 30 seats with around 13 tables, with a further 22 seats and 8 tables in the outside seating area. There would also be a small retail area and customer toilets. The proposed opening hours would be Monday to Saturday 9am to 5pm, and closed on Sundays but with provision to open 2 Sundays a year for a lambing day and one for the sale of pumpkins.
8. Access for customers to the farm shop and cafe would be via the existing farm and house access and driveway off the B2176 Penshurst Road. This passes in front of the farmhouse leads to a concrete farmyard area in front of the building. This would become a customer car park for some 20 cars, including 2 disabled spaces. The proposal includes using another farm access, approximately 240m to the east, just for farm traffic. New fences and gates would also be erected to section the farm shop and café from the rest of the working farm.
9. The Framework is a material consideration in determining Green Belt proposals. Paragraph 133 identifies that the fundamental aim of national Green Belt policy

is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. At paragraph 143 the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 directs that any harm to the Green Belt should be given substantial weight.

10. Core Policy 2 of the Tunbridge Wells Borough Core Strategy 2010 (the 'Core Strategy') states that proposals in the Green Belt will be considered in line with the Framework. Saved Policy MGB1 of the Tunbridge Wells Local Plan 2006 (the 'Local Plan') predates the Framework, but still adopts much the same wording and sentiment as the Framework in stating exceptions and the need to maintain openness. I am satisfied that the Green Belt policies in the development plan are broadly consistent with the Framework.
11. The Council have refused the proposal under paragraph 146 of the Framework. This lists certain other forms of development that are not inappropriate, provided the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Part d) refers to the 're-use of buildings provided that the buildings are of a permanent and substantial construction'. From my site visit I am satisfied that the appeal building is of a permanent and substantial construction.
12. The appellant refers to the proposal being one of the developments listed as an exception under Framework paragraph 145c) namely 'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'. I accept that the proposed farm shop and café would not create a physical increase in the footprint or size of the building. However, because there is also a re-use involved, the proposal falls to be considered under both paragraphs 145c) and 146d).
13. The elevation changes, with some full height glazed sides and outdoor seating, together with the change of use of part of the building into a farm shop and cafe, would change the function and appearance of the building in the middle of the farm to something non-agricultural. This would be at odds with its rural setting and would represent an encroachment into the countryside.
14. In addition, the proposal would increase the number of people visiting the farm to go to the farm shop cafe. The associated increase in non-agricultural vehicles, including deliveries, would further change the nature of the farm and reduce the openness of the Green Belt. The parking of up to some 20 customer vehicles on an existing concrete farmyard, even if not all the time, would also be an encroachment into the countryside and reduce openness, as would the new fencing to separate the farm shop and cafe and access and parking from the working agricultural areas of the farm.
15. I find the proposal would result in a material change of use and character of the farm building and this part of the farm from agriculture. As the site is set within a wider rural setting, with open countryside around, the proposal as a whole would significantly reduce the openness of the Green Belt. The encroachment into the open countryside would conflict with one of the five purposes of including land in the Green Belt. The proposal would therefore constitute inappropriate development, which is by definition, harmful to the

Green Belt and to which substantial weight should be given. It would also be contrary to Core Strategy Core Policy 2 and saved Local Plan Policy MGB1.

Suitable location

16. It is not unusual for farms to sell their produce in a farm shop. Nor is it uncommon for them to be located in rural locations, as is the case here. In addition to selling lamb and sheep milk and products, the farm shop would also sell eggs, vegetables including pumpkins and sweetcorn, and cut flowers. The appellant anticipates that 50% of the shop's produce would come from the farm, with 40% from local supplies within a 15 mile radius and 10% from other sources, although there is some confusion as to how this has been worded and interpreted. I note the appellant is willing to have a condition imposed restricting the proportion of goods sold generated by the farm and those sourced from elsewhere, similar to another farm shop at Groombridge.
17. With a sizeable part of the proposed floor area given to the café, the proposal would likely become a destination in its own right. However, customers would likely to be reliant on the car. The site is some distance from Bidborough and the road is unlit with no pavement with vehicles able to drive at the national speed limit. This would not be conducive or safe to encourage walking or cycling. The appellant advises a bus service passes the site, but I have not been advised of its frequency and where it stops. The Framework requires opportunities to promote walking, cycling and public transport to be identified and pursued (paragraph 102) and that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes (paragraph 103). The proposal would not do this.
18. On the other hand, the Framework acknowledges that in rural areas businesses may need to be located beyond existing settlements and in locations not well served by public transport (paragraph 84), and the proposal is using an existing farm location in the rural area. Furthermore, paragraph 83 a) and b) do encourage the expansion of all types of total business and development and diversification of agricultural and other land-based rural businesses.
19. However, the farm shop and cafe is not an existing business. I find that the inclusion of the café with its sizeable seating provision including a dedicated outside seating space, would act as a destination in its own right. Without the provision of sustainable choices of transport, customers would be reliant on the car and I consider this constitutes unsustainable development. Accordingly, the proposal would be contrary to Local Plan Policies LBD1, EN1 and EN25 and Core Strategy Core Policies 1, 4, 5, 7, 8 and 14. These policies collectively seek, amongst other things, to deliver development in a managed way and strengthen the rural economy with development that respects the landscape setting, avoids pollution from traffic generation and encourages non-motorised modes of transport. Retail development is expected to be within existing centres.

Character and appearance

20. My site visit observations, which are already described above, are broadly in accordance with the characteristics of the National Character Area 122 'High Weald' and Local Character Area 5 'Speldhurst Wooded Farmland'. The

Landscape Character Assessment¹ describes the key characteristics of this landscape type as a complex network of valleys and ghyls, with open ridges and lush deep ravine woodlands. Fields are of varying sizes from large-scale open pasture and arable to small irregular fields within valleys.

21. According to the AONB Management Plan², this AONB is an historic countryside that is one of the best surviving medieval landscapes in Northern Europe. It is characterised by rolling hills, irregular fields, gill streams and extensive woodlands, most of which are ancient. Hence, the sloping fields and ancient woods of the farm and appeal site are a characteristic feature of the AONB and the national and local character areas. In accordance with paragraph 172 of the Framework I attach great weight to conserving and enhancing the landscape and scenic beauty of such a nationally designated area, as they have the highest status of protection in relation to those issues.
22. The proposal would introduce a significant change to the appearance and function of the agricultural building and farmyard. Whilst black timber cladding is associated with more traditional agricultural buildings in the ANOB, I find that as the building is set down slightly from the road it would not be wholly inappropriate on an agricultural building in an agricultural setting.
23. However, the large areas of glazing are not normally associated with agricultural buildings and would be out of keeping with the farm and its location in the rural landscape and AONB. Furthermore, the customer car parking, even though partially obscured from the road, would result in an incongruous form of development within a peaceful agricultural landscape setting, and harm the character and appearance of the rural area. Furthermore, it would not conserve or enhance the landscape and scenic beauty of the AONB, to which great weight should be given.
24. The use of an existing track for farm vehicles may need to be upgraded, and could be done under permitted development, as part of works reasonably necessary for the purposes of agriculture
25. Accordingly, the development would conflict with saved Local Plan Policies LBD1, EN1 and EN25 and Core Strategy Core Policies 4 and 14. These policies collectively seek to ensure that development would not harm the landscape of the area, and conserves the local character and distinctiveness of the Borough and the High Weald AONB. Core Policy 5 relates to 'sustainable development and construction'. Issues such as flood risk, water management, renewable energy and pollution have not been raised by the Council and hence this policy is not directly relevant to this main issue.

Highway safety

26. The existing access and splayed concrete apron afford some visibility of the road in both directions. I noted from my site visit that vehicles travelled quite fast along this stretch of road, particularly when approaching downhill from the west, as the site lies within the national speed limit.
27. The existing access is used by farm traffic, as well as by occupiers of the farmhouse. The appellant proposes to use the more easterly farm track for farm traffic to keep it segregated from visitors to the farm shop and cafe and to

¹ Tunbridge Wells Borough Landscape Character Assessment

² The High Weald Area of Outstanding Natural Beauty Management Plan 2014-2019

reduce vehicle numbers using the access. However, the proposed use would see an increase in use of the access by cars visiting the farm shop and café.

28. The County Highways Officer objects to the intensification of the access without proper demonstration that the visibility splays are available and appropriate for the speed of approaching traffic so as not to increase highway hazards. Whilst the appellant has submitted a Transport Statement (TS) the Highways Officer advises that it does not include the likely traffic generation in the context of existing traffic or include details of customer, staff and delivery trips in terms of numbers, sizes and frequency of vehicles.
29. I am unable to be certain that the proposed development would not cause a detriment of highway safety. Therefore, I am unable to conclude whether this part of the proposal would be acceptable. Accordingly, the proposal conflicts with Local Plan Policy TP4, which seeks to ensure, amongst other things, that a safely located access with adequate visibility exists or could be created.

Other Considerations

30. The appellant advises the farm is currently a profitable sheep farm, albeit dependant on subsidies. However, with a post-Brexit Agriculture Policy he is looking ahead to farm diversification, if the Government's direct payments to all farmers is phased out. Also, possible new government environmental land management contracts may encourage public access to farmland.
31. The Framework advises that decisions should enable the diversification of agricultural and other land-based rural businesses to support a prosperous rural economy (paragraph 83). However, there is no viability evidence to show how effective the farm shop and café would be to the farm's viability. Nor is the post-Brexit situation confirmed or any possible alternative schemes.
32. There would be some economic benefit arising from job creation and the use of local suppliers. However, the provision of 1½ jobs in the farm shop and cafe would be modest.
33. The appellant refers to Groombridge Farm Shop, where the Council approved a new farm shop and more recently an extension to it. I have little information before me about the details of the site, its context and the particulars of the proposal. The Council add that it is located at a busy junction with a bus stop nearby, which is different to the appeal site. I find it is not directly comparable to the appeal proposal, which I must consider on its own merits.
34. The appellant has made me aware of the site history and that the current farm was originally a greenfield site that has been developed into a new farmstead. Farms are a common feature of the rural landscape so presumably, in granting it, the Council had no issue with the agricultural development in the Green Belt. However, I find little relevance in the comparison between the provision of a new farm and the appeal proposal before me.

I also note the appellant's reference to permitted development for changes of use of agricultural buildings to shops and restaurants/cafes to illustrate that the principal can be acceptable. However, such a proposal is not before me and in any event, as the appellant points out, the farm building has not been erected and in use long enough to qualify for such permitted development. Therefore, I give this matter limited weight in my considerations.

Other Matters

35. A number of third parties raise a series of other concerns about the proposal. But in view of the reasons for refusal and my conclusions on the main issues there is no need for me to address these in the current decision.

Planning Balance

36. The development constitutes inappropriate development in the Green Belt in the terms set out in the Framework and would lead to a loss of openness to the Green Belt. It would be an encroachment into the open countryside, which conflicts with one of the five purposes of including land in the Green Belt listed in paragraph 134 of the Framework. This harm is a serious planning objection, to which substantial weight must be given.
37. Great weight is given to the harm that would be caused to the landscape and scenic beauty of the AONB, in addition to the harm to the character and appearance of the rural area.
38. On the other side of the balance, I give only moderate weight to the support to the rural economy and to the appellant's desire for future farm diversification, because the situation regarding subsidies is not confirmed and the farm is already profitable and no viability evidence has been submitted regarding this.
39. The advanced considerations in support of the appeal, whether taken individually or cumulatively, do not clearly outweigh the harm I have identified and the substantial weight to be given to Green Belt harm. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

40. For all the above reasons and having regard to all matters raised, I conclude that the proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal should be dismissed

K. Stephens
INSPECTOR