
Appeal Decision

Site visit made on 23 January 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/Y3615/W/19/3238193

Highlands Farm, Portsmouth Road, Ripley GU23 6EY

- 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 R Hunt against the decision of Guildford Borough Council.
 - The application Ref 19/P/00580, dated 11 March 2019, was refused by notice dated 30 July 2019.
 - The development proposed is erection of two buildings, laying of hardstanding, associated engineering operations and change of use to mixed use agricultural and equestrian following demolition of agricultural buildings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I note that the application has been submitted retrospectively. During my site inspection, I observed that replacement Building A had been erected, Building B had been partially completed, and a diagonally laid track had been constructed to the north of the farmyard. Within the farmyard, concrete hardstanding had been laid around the buildings, raised planters containing semi-mature conifers had been constructed beside both buildings, and a retaining wall had been built near the eastern boundary. I have dealt with the appeal accordingly.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area; and
 - If the proposal would be inappropriate development, whether any 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

4. Highlands Farm comprises around 9.3 ha of land, located in the countryside between the villages of Ripley and Send Marsh. A public footpath runs adjacent to the site boundary, and another footpath runs through the site, linking Send Marsh Road to Portsmouth Road. Vehicular access to the site is from Portsmouth Road via a track which runs between two residential properties and forms part of the former aforementioned public footpath.
5. A farmyard is sited near the centre of the site and is bounded by close-boarded fencing of around 2m in height. Fields surround the farmyard, and the wider farm holding is also enclosed by close-boarded fencing, of around the same height. The appeal site comprises the farmyard and surrounding fields, and excludes a rectangular shaped area of land at the southern end of the farmyard, which is occupied by single storey buildings and structures.
6. Both main parties agree that the lawful use of the site is for agricultural purposes. The appellant acknowledges that a number of unauthorised uses took place from the site prior to the appellant purchasing it. The Council has advised that the site is currently the subject of an active enforcement investigation in respect of development including the erection of two large buildings, the construction of planters and a retaining wall, the laying of hardstanding and tracks and the siting of a mobile home.
7. At the time of my site inspection, Building A was largely empty, aside from the storage of a small ad hoc collection of items, including some furniture, cycles, and a vehicle. The frame and roof of Building B provided cover for the storage of building materials. There is also a smaller building sited near the northeast corner of the site, within which vehicles were stored. Open storage of building materials, scaffolding and various motor vehicles was also evident within the farmyard.

Whether or not the proposal is inappropriate Development in the Green Belt

8. Paragraph 145 of the Framework establishes that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances. The exceptions within Paragraph 145 include: 'a) buildings for agriculture and forestry; and b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.'
9. Paragraph 146 of the Framework confirms that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include: 'b) engineering operations; and e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'.
10. The appeal proposal comprises the aforementioned two pitched roof, box profile metal clad Buildings A and B, the laying of concrete hardstanding around the buildings within the farmyard, the construction of a track to the

north of the farmyard, a retaining wall close to east side of the farmyard and the construction of raised planters to the side of Buildings A and B.

11. The development would be used in association with the change of use of the entire appeal site from agricultural use to a mixed agricultural and equestrian use, comprising the commercial breeding, rearing and sale of a range of different breeds of horses including racing stock and those for personal use.

Change of use

12. The appellant asserts that the proposed keeping of sheep and cows, which would graze on the appeal site, would fall within the definition of agriculture within Section 336 (1) of the Town and Country Planning Act 1990 (the 1990 Act). Both main parties are agreed that the proposed equestrian business would not constitute an agricultural use. My assessment concurs with these opinions, having regard to the 1990 Act.
13. The appellant contends that the proposed equestrian use, whether commercial or not, falls within the definition of outdoor sport and recreation. In support of this assertion, the appellant has submitted an Equestrian Appraisal and Business Plan as part of the Appeal Statement, confirming that the equestrian stock would be the focus of the business operation, and that the horses to be reared are intended to be of racing quality. The appellant highlights the contribution that the breeding of racing quality foals would make to the horse racing industry, as evidence that the proposed equestrian use would conform with the definition of outdoor sport for the purposes of paragraph 146 of the Framework. In support of the recreational use of the site, the appellant states that those horses that do not achieve racing quality, would be sold for personal recreational use.
14. However, I do not find the appellant's submitted information to satisfactorily demonstrate, as a matter of fact and degree, that the site would be used for outdoor sport or recreation. Rather, to my mind, it confirms that the equestrian use would be a commercial business for the rearing and breeding of horses for sale, irrespective of whether they are sold for racing purposes or personal recreational use. I acknowledge the appellant's assertion that the proposal would contribute more widely to the outdoor sport of horse racing, but the proposal would not involve sporting or recreational activities taking place on the appeal site.
15. The appellant has drawn my attention to the planning approval Ref 17/P/02478 which relates to a different site in the Council's area. However, I do not find this to be directly comparable with the appeal proposal, since it relates to a development for livery stables, including a sandschool and exercising land. In any event, I must determine the appeal having regard to the particular circumstances of the appeal site and proposal as before me. Furthermore, there are no areas of the site specifically designated for equestrian outdoor sport or recreation within the proposed layout of development on the planning application drawings.
16. Also, I do not find the appellant's comparison of the proposal with that of a football club training facility to be a compelling argument in favour of the proposal, since a training facility, whether or not a commercial operation, would nonetheless involve sporting activity taking place. Therefore, I do not find the proposed mixed use of the site for agriculture and equestrian use to

comprise an exception to inappropriate development within the Green Belt when assessed against Paragraphs 146 e) of the Framework.

New buildings

17. Paragraph 145 a) and b) of the Framework confirm that new buildings for agriculture and the provision of appropriate facilities for outdoor sport or outdoor recreation are not inappropriate in the Green Belt. The latter is subject to the buildings preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.
18. The appellant has advised that the new buildings would help facilitate the proposed mixed agricultural and equestrian use, by providing a dry location for loose boxes and associated products such as feed and horse boxes and space for vets and farriers as required. This stabling would only be required during the foaling season and the remainder of the time, the horses would be grazing on the site, alongside a small flock of sheep and a herd of cattle. Building A would be used for the storage of agricultural equipment, machinery, vehicles associated with the proposed use, and maintenance equipment. Building B would be used for the bulk of the equestrian activity.
19. The appellant has confirmed that there is likely to be a degree of flexibility between the two buildings. Therefore, both buildings would be used for a mix of agricultural and equestrian use. Given my findings on the proposed equestrian use not falling within a sport or recreation use, Buildings A and B would therefore not accord with the exceptions to inappropriate development in the Green Belt within paragraphs 145 a) and 145 b) of the Framework.

Operational development

20. Paragraph 146 b) of the Framework states that engineering operations are not inappropriate development in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
21. The creation of the access tracks, hardstanding, planters and retaining wall would constitute engineering operations. My conclusions on the next issue, their effect on Green Belt openness and purposes, will determine whether or not these aspects of the development are inappropriate.

Effect on Openness and Green Belt Purposes

22. The appellant refers to openness in respect of the amount of unbuilt on land, and contends that the proposed buildings would comprise a smaller overall floor area than that of the demolished former farm buildings within the farmyard area. A valuation report has been submitted to provide evidence of the floor areas of the former buildings. The appellant claims that given the size and spread of the former buildings, they would have had equal visual prominence as the new buildings, and that any perception of increased prominence would be solely owing to the change in circumstances on site and the fact the buildings are new and have not yet weathered. The Council has not refuted the floorspace figures submitted with the appellant's Appeal Statement, but refers to the photographs included within the valuation report which indicate that the former buildings were lightweight buildings, and that some were low and open-sided and fitted in with their surroundings, in contrast with the new buildings.

23. Green Belt Openness has a visual aspect as well as a spatial aspect. Notwithstanding the application drawing Ref 1978 52 A entitled 'Existing Elevations', since the majority of the former buildings have been demolished, I have no definitive information regarding their complete details. I must determine the appeal on the evidence before me, including the photographs referred to by the Council, and on the basis of my site inspection. Following my visit, I find the new buildings to have a visually intrusive impact on the surrounding countryside, due to a combination of their large footprints, height and massing, green metallic material, pitched roof design and proximity to each other. They appear visible above the height of the site perimeter fencing when viewed from public viewpoints outside the site.
24. Having regard to the submitted photographs and planning application drawing Ref 1978 52 A, in my opinion, notwithstanding that the previous buildings had a greater combined footprint than that of buildings A and B, I find that the previous buildings are likely to have had a less visually prominent impact on views from within the wider landscape, since they comprised a group of buildings of a design, materials, height, massing and layout, typically associated with rural farmyards. Accordingly, taking into account the likely reduction in overall floor space based on the submitted valuation report, and the visually prominent nature of the new buildings, as witnessed on my site visit, I conclude that Buildings A and B have resulted in a moderate impact on the openness of the Green Belt.
25. The appellant contends that the level of unbuilt on land has not been increased by the formation of the access track and hardstanding. This is on the basis that the area of new track is cumulatively shorter than that which it replaced, with the removed sections being returned to grass, and because the hardstanding within the farmyard was placed on top of existing hardstanding. Furthermore, the appellant asserts that the retaining wall did not comprise a building operation since a bank already existed in that part of the site and so no excavation took place to provide the retaining wall.
26. Given the retrospective nature of this part of the appeal scheme, I find that the evidence before me is inconclusive with respect to the previous amount of hardstanding within the farmyard, the land levels within the area of the retaining wall and amount of previous built development on the site of the raised planters. Therefore, I am unable to assess with any certainty whether these elements of the scheme have had a greater impact on the openness of the Green Belt and the purpose of including land within it than the previous development that existed on the site.
27. However, in respect of the access track, I am persuaded by the Council's submitted aerial photographs dated 2012-2013 and 2018, which indicate that the existing access tracks north of the farmyard have a greater degree of permanence and visual prominence than the situation as existed in 2012-2013. I find that they have altered a significant amount of vegetated open land to hard surfacing, upon which there would be associated activity, such as the movement of vehicles. The visual impact is exacerbated by the diagonal layout of part of the track which does not follow any established field boundaries.
28. In the above respects, I conclude that the access tracks have a greater impact on the openness of the Green Belt than the previous development on this part of the site. Whilst the effects would be moderate, on the basis that a

fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open, they would be sufficient to result in this aspect of the development being inappropriate in the Green Belt.

29. I acknowledge the appellant's assertion that the close-boarded fencing around and within the appeal site would normally be permitted development not requiring permission. The Council also appears to acknowledge that the fencing was erected under permitted development rights. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. The fencing does not form part of the description of development and is not detailed on the planning application drawings. Furthermore, the appellant has confirmed that the fencing is not part of the appeal proposal. Accordingly, I have dealt with the appeal on this basis, notwithstanding the Council's concerns regarding the impact of the fencing upon the openness of the Green Belt and the character and appearance of the area.
30. Having regard to the above, I therefore conclude that the development as a whole would not comprise an exception to inappropriate development when assessed against paragraphs 145 a) and b) and paragraphs 146 b) and e) of the Framework. It would also fail to safeguard the countryside from encroachment, one of the 5 purposes of the Green Belt, and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Character and Appearance

31. The original character of the appeal site is that of open agricultural fields surrounding a farmyard complex of rural buildings. As stated above, the appeal scheme includes large buildings, which by virtue of their scale, design and materials, contrast with the character of the former agricultural buildings within the farmyard, and appear stark and visually prominent in wider views towards the site, including from the two public footpaths within the site vicinity, to the detriment of the visual amenities of the locality. In addition to the buildings, the significant amount of concrete hardstanding around the buildings, and the formal character of the retaining wall and the new access track, which cuts across the field with no respect for the alignment of the natural field boundaries, serve to exacerbate the urbanising nature of the appeal scheme and its incongruous character in relation to the surrounding grassed fields.
32. For the above reasons, I conclude that the proposal would harm the intrinsic rural character and appearance of the countryside. As such, it would be contrary to Policy D1 of the Guildford Borough Local Plan 2019 (GBLP) which, amongst other things, requires new development to achieve a high quality design that responds to the distinctive local character, including landscape character, of the area in which it is set.

Other considerations

33. The proposal would contribute to the rural economy, through the generation of income for local trades and businesses. The appellant argues that the proposal would bring an otherwise redundant agricultural site back into economic use, on the basis that a wholly agricultural use of the site is not feasible due to topography, location of footpaths and soil quality. I find that this statement is not supported by demonstrable evidence, and I note that the current extent of

agricultural use appears to be limited to that of 2 cows grazing on the land. Furthermore, the number of employees for the new enterprise identified in the appellant's supporting Equestrian Appraisal and Business Plan appears to be limited to the appellant, and then an additional member of staff after 3 years. Accordingly, I give moderate weight to the benefits to the rural economy.

34. I acknowledge the potential positive contribution the development could make to the horse racing industry through the breeding of racing quality foals. I also give this moderate weight.
35. The appellant has drawn to my attention the lack of Council objections on matters relating to highway safety and the impact on neighbouring living conditions. I attribute a neutral weight to these issues, since they are a requirement of the development plan and the Framework.
36. I have noted the support from third parties who consider that the new buildings and trackway are improvements from the previous run-down buildings and mud-based track. I attribute limited weight to this, since the previous buildings and track were capable of improvement without the need for the appeal scheme.

Planning Balance

37. In conclusion, I have identified that the scheme comprises inappropriate development in the Green Belt as defined by the Framework. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on the openness of the Green Belt, the purpose of safeguarding the countryside from encroachment and character and appearance. Substantial weight should be given to harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are outweighed by other considerations.
38. As explained above, I give only moderate, limited or neutral weight to each of the material considerations cited in support of the proposal, and I conclude that, taken together, the substantial weight to be given to Green Belt harm and the harm caused to the character and appearance of the area would not be clearly outweighed by the other considerations, sufficient to amount to the very special circumstances necessary to justify the development. The proposal would therefore be contrary to Policy P2 of the GBLP, which aims to protect the Green Belt against inappropriate development, and Chapter 13 of the Framework.
39. I acknowledge a number of third party objections on a range of other matters. However, given that I have already identified that the harm to the Green Belt is not outweighed by the benefits of the proposal, there is no need for me to consider these matters further.

Conclusion

40. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR

