



Appeal Decision

Site visit made on 15 June 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2020

Appeal Ref: APP/P1805/W/20/3244266

Newhouse Farm, Lea End Lane, Hopwood, Alvechurch, Birmingham B48 7AX

- 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 Phillip Michell against the decision of Bromsgrove District Council.
 - The application Ref 19/00970/FUL, dated 16 July 2019, was refused by notice dated 7 November 2019.
 - The development proposed is erection of 7 stable blocks (total 19 loose boxes), 1 pole mounted floodlight and CCTV camera, toilet and manege.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Phillip Michell against Bromsgrove District Council. This application is the subject of a separate Decision.

Background

3. In June 2014, the Council granted planning permission¹ at the site for a scheme of broadly comparable scale and makeup to that which is now proposed, which comprised the erection of 6 new stable blocks, a manege and associated works. However, what was subsequently constructed went beyond the terms of the June 2014 permission. This ultimately led to an enforcement notice (the EN) being issued by the Council in May 2018. The EN relates to the carrying out without planning permission of operational development consisting of 12 stable blocks, 16 wooden sheds, a manege, a 7m tall pole mounted floodlight, an office/restroom and a toilet. Following an appeal², the EN was upheld in June 2019.
4. The proposal that is before me would effectively entail the part retention of the various buildings and structures that were constructed and were the subject of the EN. The buildings and structures that were in place at the time of my inspection loosely resembled the scheme that is now before me for consideration. Nevertheless, for the avoidance of doubt, I must consider the appeal based on the plans submitted.

¹ 13/0657

² APP/P1805/C/18/3205710

Main Issues

5. The main issues are:

- Whether or not the proposal is inappropriate development in the Green Belt; and
- If the proposal is inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

6. Policy BDP4 of the Bromsgrove District Plan (January 2017) (the BDP) and the National Planning Policy Framework (February 2019) (the Framework) set out that the development of new buildings shall be regarded as inappropriate development in the Green Belt, unless one of several stated exceptions apply. These exceptions include where appropriate facilities for outdoor recreation are proposed and these facilities would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
7. A further Green Belt exception, as set out in Policy BDP4 and similarly identified in the Framework, includes the partial or complete redevelopment of a previously developed site that would not have a greater impact on the openness of the Green Belt and the purpose of including land within it when compared to the existing development.
8. The buildings that are the subject of this appeal, which are comprised of 7 stable blocks, associated wooden sheds and a toilet (the proposed buildings) constitute appropriate facilities for outdoor recreation. Also, given that the site's baseline condition is that of a hard-surfaced area of land, I am satisfied that the proposal represents the redevelopment of a previously developed site. Thus, in accordance with the requirements of Policy BDP4 and the Framework, to determine whether or not the proposed buildings are inappropriate development in the Green Belt I must consider their effect upon openness whilst taking account of the site's baseline condition.
9. Policy BDP15 of the BDP offers support for proposals that satisfy the social and economic needs of rural communities by encouraging, amongst other development types, new buildings in association with equine development, such as stables and field shelters where kept to the minimum necessary and consisting only of essential facilities genuinely required on a parcel of land, which preserve the openness of the Green Belt.
10. When considered in the context of the potential capacity of neighbouring land (that falls under the appellant's control) to graze horses, the stables and other buildings that are under consideration are proportionate in their number and extent. Indeed, I am satisfied that, should the neighbouring land's full potential to graze/support horses be expended, the buildings could be described as genuinely required essential facilities and as the minimum necessary. However, whilst the proposal accords with elements of Policy BDP15, it does not follow that the proposed buildings necessarily preserve the openness of the Green Belt.

11. It is also not the case that the introduction of any new building should automatically be found to fail to preserve the openness of the Green Belt. Indeed, if that were the case, there would be little point in appropriate facilities for outdoor recreation being listed as a Green Belt exception within either Policy BDP4 or the Framework. Nevertheless, any requirement to preserve openness is consistent with the fundamental aim of Green Belt policy and is thus a matter of importance that must be given appropriate emphasis in decision making.
12. The proposed buildings, when considered individually, are modest in form and scale. Indeed, each proposed stable block, if considered in isolation, secures broad compliance with the various stipulations for stables and shelters that are set out within the High Quality Design Supplementary Planning Document (June 2019). However, whilst the toilet building is of minor scale and consequence, a considerable amalgamation of buildings is under consideration. These buildings, as inspected, are laid out in broad courtyard formations and read as a sizeable complex of buildings. Indeed, their ground coverage and volume in cumulative terms, as also set out upon the suite of proposed plans, is noteworthy.
13. The buildings, as inspected, occupy a setback position relative to Lea End Lane. They sit in proximity to existing commercial buildings and are positioned adjacent to various planting and bunding that limits their visual impact. Nevertheless, there are public rights of way that run close to the site and that offer various glimpsed views of the buildings from differing vantage points. It is also important to note that openness in Green Belt terms has a spatial aspect as well as a visual aspect and that a sizeable complex of buildings is under consideration. The effect of the proposal is a loss of openness. Although this reduction in openness is less when compared to the previously refused/dismissed 12 stable block scheme, it nevertheless remains tangible and moderate in extent.
14. The manege and pole-mounted floodlight and CCTV camera(s) that are already in place and also make up part of the proposal represent engineering operations, which are listed in the Framework as forms of development that are not inappropriate in the Green Belt provided that they preserve openness and do not conflict with the purposes of including land within it. The pole, that supports a small-sized floodlight and CCTV camera(s), is of slimline design and the perimeter fencing that surrounds the manege is low-level and of inobtrusive post and rail construction. Unlike the proposed buildings, I find that these various engineering operations do not cause harm through loss of openness.
15. The June 2014 planning permission that related to a broadly comparable scheme of works to the proposal that is before me, and which expired back in 2017, is no longer capable of being implemented and does not represent a fallback position should this appeal be unsuccessful. This is consistent with the findings of previous appeal³ Inspectors at the site. The June 2014 permission expired in excess of two years prior to the planning application that is now the subject of this appeal being submitted, and it is of limited relevance to the question of whether the proposal before me represents inappropriate development.

³ APP/P1805/W/18/3194042 and APP/P1805/C/18/3205710

16. The now superseded Policy RAT17 (Stabling) of the Bromsgrove District Local Plan (January 2004) (the BDLP), which formed part of the development plan in the District in June 2014, largely duplicated Policy BDP15's current requirements with respect to new buildings in association with equine development. Indeed, Policy RAT17, consistent with Policy BDP15, required such development to preserve the openness of the Green Belt.
17. However, now superseded Policy DS2 of the BDLP, which set out the criteria for considering Green Belt development, was not fully consistent with the Green Belt exceptions that are set out within the Framework (or the version of the Framework (March 2012) that was in place in June 2014). Indeed, where proposals for essential facilities for outdoor sport and outdoor recreation were referenced under Policy DS2, there was no specific mention to the preservation of openness. It is evident that Policy DS2 influenced the Council's decision to grant planning permission at the site in June 2014, which assists in explaining why the scheme's effect on Green Belt openness would appear not to have been comprehensively considered at that time.
18. The appellant has pointed to previous opportunities that the Council has had to claim that the June 2014 decision was wrong or unlawful. However, the onus has never been on the Council to dispute the merits of their own decision. The June 2014 permission instead represents a material consideration that, when once capable of being implemented, would have held considerable importance in guiding development decisions and openness considerations at the site. However, when noting the expired status of the permission and the 2017 adoption of the BDP, the Council was fully entitled to come to the conclusions that it did (upon the proposal that is now the subject of this appeal) based on a correct interpretation of the relevant policies.
19. For the above reasons, and on the basis that the proposed buildings would have a greater impact on openness when compared to the site's baseline condition and would not preserve the Green Belt's openness, the proposal would be inappropriate development in the Green Belt. The proposal conflicts with Policies BDP4 and BDP15 of the BDP and with the Framework in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt and that proposals for new buildings in association with equine development must preserve the openness of the Green Belt.

Other matter

20. When the EN was upheld at appeal in June 2019, the Inspector alluded to the possibility of a future planning application being submitted to undertake development similar to that permitted in June 2014. That possibility was indeed realised, and the resultant application is now the subject of this appeal. However, the June 2019 reference to the possibility of a future proposal does not infer that planning permission would necessarily be granted. Indeed, it would have gone beyond that Inspector's remit to make any such suggestion. For the avoidance of doubt, the proposal that is before me must be considered upon its own individual merits.

Whether very special circumstances apply

21. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appellant's case is based on the proposal not being

inappropriate development such that specific very special circumstances have not been advanced. Nevertheless, I have been made aware of factors that weigh in favour of the scheme and I must consider whether they would cumulatively amount to the very special circumstances necessary to justify the development.

22. There are economic benefits associated with this farm diversification project, which supports the growth and sustainability of a rural business and which I understand provides employment opportunities. Furthermore, the details that have been provided with respect to recent stable occupation rates at the site indicate that there is a local demand for the stabling facilities. This is consistent with my understanding that other stables in the area have closed in recent times. Noting the fairly limited scale of the business under consideration, I apportion moderate weight to the scheme's economic benefits.
23. In accordance with the requirements of Policy BDP25 of the BDP, the scheme supports outdoor recreation opportunities and encourages greater access to the countryside. There are health, well-being and community benefits associated with these factors, to which, when noting the relatively limited scale of the business under consideration, I apportion moderate weight.
24. The proposal promotes an effective use of land by bringing forward the development of a previously developed site. When noting the site's location set away from the nearest settlements, I afford moderate weight to this benefit of the scheme.
25. The contributions set out above do not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) so as to amount to the very special circumstances necessary to justify the proposal. The development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

26. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR