



Appeal Decision

Site visit made on 16 June 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2020

Appeal Ref: APP/V1505/C/19/3239994

**The Willows, Tye Common Road, Little Burstead, Billericay, Essex
CM12 9SD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr James La-Thangue against an enforcement notice issued by Basildon Borough Council.
- The enforcement notice was issued on 27 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building ("the Building" – shown edged and hatched black on the Notice plan) on the Land.
- The requirements of the notice are to remove the Building from the Land including all associated fixtures, fittings and waste materials therefrom.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. I note that the draft Basildon Borough Local Plan (draft LP) has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, I am only able to give it limited weight in my decision.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

2. The main issues are whether the development comprises inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, and the effect of the development on the openness of the Green Belt.

Reasons

Inappropriate development

3. The Framework states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions, including buildings used for agriculture or forestry purposes. I understand that there are no policies in the adopted Local Plan directly relating to agricultural buildings in the Green Belt.
4. The building at The Willows is a metal framed and black painted timber clad building with black fibre cement slate roof and steel roller shutter doors, next to a series of stables and garage or store building of similar character and appearance. It has a concrete floor and contains machinery, including quad bike, digger and tractor.
5. The holding comprises 8 acres including the house and adjacent buildings, along with an additional 36 acres of farmland. The land produces hay bales and I understand that some of these may be stored within the building, along with the machinery that is used for cutting the hay. In addition, Willow Hay Limited based at The Willows produces cereals, leguminous crops and oil seeds. These are agricultural uses.
6. The Council suggest that the building has been constructed on previously developed land as it is located adjacent to stables and that the building is used to support the equestrian use associated with those stables, which is not an agricultural use. Nevertheless, nothing has been provided to dispute the appellant's subsequent assertion that the building is reasonably necessary for agriculture and was constructed for that purpose. The change of use of land and buildings occupied with it to an agricultural use are excluded from the definition of development. If I were to grant planning permission, this would be for the construction of the building that is in agricultural use.
7. For these reasons, I conclude that the building is reasonably necessary for agriculture and is in agricultural use. As such, it accords with one of the exceptions to inappropriate development within the Green Belt as set out in the Framework.

Openness

8. The building is located on the edge of the property, with its rear elevation facing and in close proximity to Tye Common Road. Nevertheless, it is a simple structure, relatively modest in size, constructed in dark coloured materials and located adjacent to other buildings. Some planting has taken place between the rear elevation and roadside to soften the appearance to some extent. So, whilst prominent in the street scene, its appearance and location mean that its visual impact is relatively modest.
9. As a building within the Green Belt, it results in some development where none was previously such that there is an adverse spatial impact on the openness of the Green Belt.
10. Taking all of the above into account, the building adversely affects the openness of the Green Belt. However, the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. In this instance, the agricultural building would not

amount to urban sprawl or material encroachment into the countryside. Therefore, it would not materially conflict with the purposes of the Green Belt set out within the Framework. This limits the weight that can be given to the building's adverse effect on the openness of the Green Belt.

Other matters

11. My attention has been drawn to Policy GB3 of the draft LP. That relates to new development within the Green Belt where very special circumstances have been demonstrated to allow the development and requires the withdrawal of permitted development rights conferred by the Town and Country (General Permitted Development) (England) Order 2015 (GPDO) in these circumstances.
12. Reference has been made to other buildings at the property that could be used for storage. I have limited information relating to these buildings and whether they would be a suitable alternative for the agricultural use of the building subject of this appeal. Consequently, this carries limited weight in my decision.
13. I understand that there have been previous planning applications¹ that have sought to regularise this development but were refused by the Council. I understand that no appeal was submitted to either of these decisions and they are not before me. I have been provided with limited information in relation to these decisions. Nevertheless, I have taken them into account insofar as they are relevant.
14. Trees were planted on the verge between the building and road that have subsequently been removed. My attention has been drawn to some dispute as to the date of construction of the building and whether or not the building would comply with the GPDO. None of these factors affect my consideration of the appeal on ground (a).

Conclusion

15. I have found that the building falls within an exception to the definition of inappropriate development as defined by the Framework, although it does result in some harm to the openness of the Green Belt. Taking all of the above into account, I conclude that the building is reasonably required for agricultural use and, consequently, is not inappropriate development and these factors outweigh the limited adverse effect on the openness of the Green Belt.
16. My attention has not been drawn to any specific conditions that should be applied to this development. As very special circumstances didn't need to be demonstrated, permitted development rights don't need to be removed in accordance with Policy GB3 of the draft LP. I have not identified any other conditions that are required in this case.
17. For the reasons set out above, I conclude that on balance the development does accord with the development plan. The appeal on ground (a) therefore succeeds.

Formal Decision

18. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already

¹ References 16/01203/FULL and 17/00264/FULL

carried out, namely the erection of a building on the Land at The Willows, Tye Common Road, Little Burstead, Billericay, Essex CM12 9SD as shown edged and hatched black on the plan attached to the notice.

AJ Steen

INSPECTOR