
Appeal Decision

Site visit made on 18 August 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2020

Appeal Ref: APP/N1920/W/20/3252826

Fold Farm, Galley Lane, Barnet, Hertfordshire EN5 4RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr G Lewis against Hertsmere Borough Council.
 - The application Ref 20/0021/FUL, is dated 7 January 2020.
 - The development proposed was originally described as 'change of use of an agricultural building to B1 (Light Industrial) and B8 (Storage and Distribution) use'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of an agricultural building to Class B1 (light industrial) use at Fold Farm, Galley Lane, Barnet, Hertfordshire EN5 4RA in accordance with the terms of the application, Ref 20/0021/FUL, dated 7 January 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Fold Farm-Location Plan; Fold Farm-Site Plan; Proposed Floor Plan 01; Existing Floor Plan 02.
 - 3) The building shall only be used for light industrial purposes within Class B1(c) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose.

Application for costs

2. An application for costs was made by Mr G Lewis against Hertsmere Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) came into force on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987 (the UCO). However, Regulation 4 of the Regulations requires applications that are submitted prior to 1 September 2020 to be decided with reference to the use classes that were specified in the Schedule to the UCO on 31 August 2020. Accordingly, I have determined the appeal on that basis.

4. The description of development in the banner heading above has been taken from the application form. However, the appeal form describes the proposal as 'change of use of an agricultural building to Class B1 (light industrial) use'. Correspondence between the main parties has been provided by the appellant which shows that there was agreement that the Class B8 use (as defined by the Schedule to the UCO) would be omitted from the proposal. The Council has not disputed this. Notwithstanding the Highway Authority, no concerns were raised by other parties in relation to the proposal as originally described. I have been provided with the Highway Authority's comments in respect of the amended proposal. I have thus determined the appeal based on the proposal as amended. I do not consider that this has prejudiced the views of interested parties. The wording of the decision above has been framed accordingly.
5. Following the submission of the appeal against non-determination the Council stated the position it would have taken on the application if it had made a decision. The main issues identified below have been informed by the Council's statement.

Main Issues

6. I consider that the main issues are: (i) whether or not the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (the Framework); and (ii) the effect of the proposal on highway safety and the efficient operation of the highway network, with particular regard to the suitability of the access arrangement and vehicle movements.

Reasons

Inappropriate development

7. Policies SP1 and CS13 of the Hertsmere Local Plan Core Strategy Development Plan Document (CS) adopt a general presumption against inappropriate development within the Green Belt and the latter sets out that proposals will be assessed in relation to the Framework. Policy SADM26 of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan (SADM) provides detailed layout, scale and design criteria that proposals within the Green Belt must satisfy.
8. Paragraph 146d) of the Framework sets out that development consisting of the re-use of buildings which are of permanent and substantial construction is not inappropriate in the Green Belt provided that it preserves its openness and does not conflict with the purposes of including land within it.
9. The site consists of a mostly metal framed and clad agricultural building and the access to it at Fold Farm, which is primarily a dairy farm. The appellant has stated that the building was formerly used for milking cattle and is redundant because the number of cattle has decreased from 250 to 100 and milk production has reduced.
10. The main parties agree that the proposal would involve the re-use of the building and that it is of permanent and substantial construction. Based on the evidence and my observations on site I have no reason to disagree. The Council is concerned that the building is likely to be used for light industrial purposes which are independent from the established activities at the farm complex. While that may be the case, paragraph 146d) of the Framework does

not infer that the re-use of buildings for independent purposes is inappropriate development.

11. Openness is an essential characteristic of the Green Belt. In this regard, no external or internal alterations to the building are proposed. The volume of the building would therefore be unaltered. In addition, the Council considers that the building is screened from external views.
12. I note that no specific end user of the building has been identified. In addition, formal parking and servicing areas to facilitate the light industrial use have not been shown; however, parking for the existing activities at the farm complex appears to occur beside the building.
13. The Highway Authority anticipates that a light industrial use in a location such as this may generate a total of 16 vehicle trips throughout the day. The appellant has provided a list of the types of vehicles that used to travel to and from the site on a daily or weekly basis, which mostly include vehicles associated with the keeping of cattle and milk production. In addition, the Council considers there to be sufficient space within and adjacent to the site for the parking of vehicles for the proposed use.
14. In the context of the above, it is unlikely there would be a higher number of deliveries and larger vehicles generated by the proposed use compared to when the building was used for milking cattle. It is probable that there would be more people working within the building and they would travel to the site by private vehicles. However, any increase in the number of private vehicles from workers or customers would not be perceptible in the context of the number and variety of vehicles that are likely to travel to and park at the farm as a result of its existing operations. Furthermore, the area being used for parking is largely enclosed from views by the surrounding buildings and tall fencing. The proposal would therefore preserve the openness of the Green Belt in spatial and visual terms.
15. I conclude that the proposal would preserve the openness of the Green Belt and it would not conflict with the purposes of including land within it. The proposal would thus not be inappropriate development in the Green Belt. It accords with Policies SP1 and CS13 of the CS and Policy SADM26 of the SADM, as well as paragraph 146d) of the Framework, which seek to protect the Green Belt from inappropriate development.

Highway matters

16. The Council's concerns in respect of this main issue stem from comments that the Highway Authority made in relation to the Class B8 use that was originally proposed. The Highway Authority has no objection to the amended proposal. No specific highway issues have been identified by the Council as a consequence of the proposed use of the building for light industrial purposes.
17. As set out in the preceding section, it is unlikely that a high number of larger vehicles would travel to and from the site. In addition, the Council considers that there is sufficient turning space within and adjacent to it to ensure that vehicles would be able to enter and exit the highway in a forward gear.
18. I have no evidence which indicates that the access arrangement or the number or type of vehicle movements generated by the proposed use would have an adverse effect on highway safety or the efficient operation of the highway

network. The proposal therefore accords with Policy SP1 of the CS and Policy SADM40 of the SADM, which seek to ensure that environments are safe.

Other Matters

19. In addition to the policies referred to above, the Council concludes within its appeal statement that the proposal conflicts with CS Policies SP2, CS12, CS14, CS16, CS22 and CS25 and SADM Policies SADM11, SADM12, SADM20, SADM22 and SADM30. However, the reason for the Council stating that there is conflict with these policies is unclear. Notwithstanding this, I have carefully considered these policies in that they relate to matters including the presumption in favour of sustainable development, the natural environment, heritage assets, design, landscape, trees, accessibility, parking, waste and pollution. Therefore, in the absence of any evidence to the contrary, I find no conflict with the aforementioned policies.

Conditions

20. An approved plans condition is required to provide certainty. A condition to require the building to be used for light industrial purposes, which fall within Class B1(c) (as defined by the Schedule to the UCO), is necessary in order to ensure that the openness of the Green Belt is preserved and highway safety is not adversely affected.
21. The Council has suggested that a condition be imposed to control the hours of operation for the proposed use. However, the UCO defines uses within Class B1(c) as those which can be carried out in any residential area without detriment to the amenity of that area. I note that the only nearby residential property is the farmhouse and it is some distance from the building. I therefore find that such a condition is unnecessary.
22. The Council has also suggested that the type and colour of the building's external materials are not varied without its prior consent in order to enhance the character and visual amenities of the area. This is also unnecessary as no operational development is proposed.

Conclusion

23. For the above reasons the appeal is allowed, and planning permission is granted, subject to conditions.

Mark Philpott

INSPECTOR