The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2020

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 26th October 2020

Appeal Ref: APP/C3430/W/20/3250012
Lodge Farm, Lodge Lane, Cheslyn Hay, WS11 0LT

- 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 Nicholas Piponides, Rockford Estates Ltd; against the decision of South Staffordshire Council.
- The application Ref 19/00627/COU, dated 5 August 2019, was refused by notice dated 8 January 2020.
- The development proposed is change of use of barns from agricultural sui generis Class to general storage use (B8 Use Class).

Decision

1. The appeal is dismissed.

Procedural Matter

2. There was one reason for refusal on the decision notice although other matters were raised by third parties and consultees. As decision maker I am required to exercise afresh my judgement on the proposal as a whole taking account of planning policies and material considerations, which I have done.

3. Although the description of development refers to the change of use of the barns there is a relatively extensive curtilage enclosed by the red line depicting the application/appeal site. The Parties were given the opportunity to comment on the effect of general storage use outside the barns on the openness of the Green Belt. I have taken the response into account.

4. The appellant has requested that I consider revised plans. These show different areas where outside storage would be restricted. However, the Procedural Guide Planning Appeals England makes it clear that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought. Accordingly I have determined the appeal on the basis of the External Site Use Plan CLR039.02A which the Council used to determine the application.

Application for Costs

5. An application for costs was made by Mr Nicholas Piponides, Rockford Estates Ltd against South Staffordshire Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt;
- the effect of the proposal on the living conditions of occupiers of nearby properties;
- whether safe and suitable access could be achieved for all; and
- if the proposal is inappropriate development, whether the 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 proposal.

Reasons

Whether inappropriate development

7. The appeal site is located in the West Midlands Green Belt in a largely rural setting. It seems that the agricultural use of the appeal site as part of a wider holding ceased when it, and adjacent buildings, were severed from the surrounding land. Nearby agricultural buildings have been converted to residential use.

8. Paragraph 146 of National Planning Policy Framework (the Framework) establishes that the re-use of buildings and material changes in the use of land are not inappropriate in the Green Belt provided that: the buildings are of permanent and substantial construction; openness would be preserved; and the proposal would not conflict with the purposes of including land within it. Policy GB1 of the South Staffordshire Core Strategy 2012 (the CS) and the Supplementary Planning Document "Green Belt and Open Countryside" (the SPD), contain similar provisions.

9. The appeal site is an area of roughly surfaced hard standing around a large, fully enclosed barn with roller shutter doors and a smaller, open-fronted, barn. Both are buildings of permanent and substantial construction. There are pockets of landscaping and the site is largely surrounded by trees and shrubs.

10. The planning history indicates that the use of the barns is restricted to crop storage and the storage of farm equipment by condition(s) attached to an earlier permission Ref 14/370/FUL although I have not been provided with a copy of that decision. At my visit I saw a variety of items stored within the barns including two tractor/diggers; building materials; and other miscellaneous items. The barns were by no means full. I also saw a shipping container adjacent to the larger barn.

11. The use of the barns for general storage would not affect the openness of the Green Belt. Nor would it add to the sprawl of large built-up areas or encroach on the countryside. The use of the barns would therefore not conflict with these, or any of the other, purposes of including land within the Green Belt. However, the site is relatively extensive with substantial area of open land around the barns. The use of the open land for general storage uses of goods, materials, machinery etc would be harmful to the openness of the Green Belt and would encroach on the countryside.

12. I conclude that, taken as a whole, the proposal would amount to inappropriate development in the Green Belt. It would conflict with the fundamental aim of Green Belt policy which is to keep land permanently open. In these respects there would be conflict with Policy GB1 of the CS and the principles of the Framework.

13. The appellant proposes that storage outside the barns could be controlled by condition. However, the External Site Uses Plan Ref CLR039.02A shows a restricted external storage area on a small part of the site closest to the boundary with the nearby dwellings. Large parts of the site would remain unrestricted. I have considered whether the use of planning conditions could address this.

14. A planning permission relates to the planning application and the plans submitted with it. The Council has proposed a condition that "there shall be no outside/external storage of any material, goods plant, equipment". However. this would conflict with the application plan. Therefore the proposed condition, in this case, would not meet the tests of precision in relation to the development or enforceability set out in the Framework and the Planning Practice Guidance (the PPG). Even had I accepted the latest amended plan, "Site Land Use Plan CLR039.03", submitted as part of the appeal, the same concerns would apply.

Living Conditions

15. The site is accessed from the A460 Lodge Lane. The appeal site and a number of dwellings rely on the junction and a short section of the access. After that the access to the dwellings carries straight on whereas access to the appeal site is provided by a turning to the left. Due to the distance of the dwellings from the junction I consider there would be negligible harm by virtue of noise and disturbance arising from the use of the access as a result of the proposal. I acknowledge that the use of the site at present is relatively low key and this could intensify as a result of the proposal. However, intensification could also occur in association with the permitted uses.

16. The dwellings are at a lower level than the site. A fence and mixed deciduous and evergreen trees and shrubs along the boundary partly obscure the site and the barns from views from the dwellings, particularly at times the trees are in full leaf. Some of the dwellings are in relatively close proximity to the boundary of the site; others, which are further away, have more distant views of the barns and the land around it, particularly above ground floor level from the three storey property known as The Hayloft. There is potential for some noise and disturbance to the adjacent dwellings arising from the movement of vehicles and goods in and around the barns. However, this could already occur with the permitted use. The appellant has offered to restrict the hours of use which would limit noise and disturbance during anti-social hours to the benefit of the living conditions of occupants of the nearby dwellings.

17. I conclude that the noise and disturbance arising from activities associated with general, as opposed to agricultural, storage would not be so harmful to the living conditions of occupiers of the nearby dwellings as to justify withholding permission particularly as hours of use could be restricted by condition. Similarly, whilst neighbours might prefer not to see storage or activity on the appeal site, a distant, private, view from a window would not of itself be

regarded as a planning matter. Accordingly I find no conflict with Policy EQ9 of the CS which seeks to protect the living conditions of nearby residents.

Access

18. The A460 is a busy, high capacity road with a 50 mph speed limit. The Highway Authority initially objected on the grounds of an increase in danger for users of the highway due to increased use of a substandard access. As demonstrated on plan Ref 1336/901A the existing junction geometry can accommodate cars and typical light commercial vehicles. Taking this into account the Highway Authority withdrew their objection subject to no deliveries being made by vehicles over 7.5 tonnes. The appellant has agreed to this condition.

19. However, no mechanism has been put forward to achieve this. Moreover, the geometry of the access after the mouth of the junction would not necessarily be apparent to drivers of larger vehicles until after the commitment to turn off the carriageway had been made. This could result in longer vehicles overhanging the carriageway whilst attempting to manoeuvre into the site creating an unexpected hazard on a busy through route where vehicles travel at speed. This would harm, rather than improve, road safety and could impede access to the nearby dwellings.

20. I conclude that the proposed condition, in this case, would not meet the tests of precision or enforceability in the Framework and the PPG; nor, in my view, would it be likely to be particularly successful in prohibiting access by larger vehicles. I therefore conclude that safe and suitable access could not be achieved. Accordingly the proposal would be contrary to the provisions of Core Policy 11 and those principles of the Framework that seek safe and suitable access for all.

Other Matters

21. The permitted use of the site is for crop storage and the storage of farm equipment. Agricultural uses would not normally amount to inappropriate development in the Green Belt or amount to sufficient justification for permitting unrestricted general storage use on the majority of the site.

22. Larger vehicles could use the access in relation to the permitted use. However, it seems to me that agricultural vehicles and machinery are generally identifiable as such, and often slower moving, so that other drivers on the highway would be more alert in relation to their manoeuvres. Accordingly this does not lead me to any different conclusion.

Other considerations

23. The M6 Toll and the 'new' section of the A460 Lodge Lane sever the site from farmland beyond them. However, there appears to be agricultural land adjoining other boundaries of the site. It would appear that no noise complaints have been made about the uses that have taken place and some nearby neighbours support the proposal. However, there are many reasons why neighbours do or do not raise complaints; other neighbours may feel differently. I give these matters limited weight in favour of the proposal.

24. The proposal would provide a storage service to small and medium businesses as well as local farmers/individuals. It would make efficient use of land; result in business diversification; and would contribute to the rural economy in

accordance with Core Policies 7 and 9. The proposal would regularise non-agricultural storage use against which the Council has served a Planning Contravention Notice. It would provide an opportunity to use planning conditions to control the hours of use. I give these matters some weight in favour of the proposal.

Planning Balance and Conclusion

25. The appeal proposal would be inappropriate development in the Green Belt. By definition therefore, it would be harmful to the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. In terms of other harm I have also found that safe and suitable access could not be achieved. In this case, even when taken together, the other considerations as set out above do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

26. In failing to comply with Policy GB1 and Core Policy 11 of the CS the proposal cannot be said to comply with the development plan as a whole. The appeal is dismissed.

S Harley

INSPECTOR