
Appeal Decision

Site visit made on 10 November 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2020

Appeal Ref: APP/W1525/20/3249625

Nettlebed, Hawkswood Road, Downham CM11 1JZ

- 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 Gary Cross against the decision of Chelmsford City Council.
 - The application Ref 19/01226/FUL, dated 25 June 2019, was refused by notice dated 1 October 2019.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Chelmsford Local Plan (CLP) 2013-2036 was adopted in February 2020 and replaces its Core Strategy and Development Control Policies Development Plan Document (DPD) 2009. Therefore, CLP policies have been considered in this appeal and not those in the DPD.

Main Issues

3. The site is within the Green Belt and so the main issues are:
 - whether the scheme would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - the openness of the Green Belt; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Whether inappropriate development

4. The appeal site is within an area of land which is to the rear of a dwelling known as Nettlebed. The area of land comprises grassland, scrub and trees, and includes a small stable block behind the residential curtilage of Nettlebed. These stable one horse and one pony. There are also a small number of chickens kept within the residential curtilage of the dwelling.
5. Paragraph 145 of the Framework establishes that new buildings or development are inappropriate unless they fall within listed exceptions. One such exception is buildings used for agriculture. Policy DM6 of the CLP states

where new buildings are proposed within the Green Belt, inappropriate development will not be approved except in very special circumstances. Exceptions to inappropriate development, include agriculture.

6. The site was formerly a poultry unit before it ceased prior to the current ownership. All former buildings have been removed. However, the appellant wants to introduce a small flock of sheep, 4-6 pigs, 4 alpacas for wool production and 50-100 free range hens for egg sales. There would also be grass grown for hay. The building would be used for the storage of hay, other foodstuffs, machinery and equipment, including tractor, flail and mulching mowers and quad bikes.
7. There is an existing residential curtilage surrounding the dwelling and trees and scrub on the land to be used for the holding. There would also be grazing of the land by the pony and horse, although the pony suffers from an illness necessitating artificial feeding. The Council has indicated that the holding would be too small and unsuited to enable the carrying out of the proposed agricultural activity. However, the details of the building would indicate livestock would be fed by foodstuffs, and therefore, it has not been proven grazing areas would be too small and restricted. Furthermore, the Council has not substantiated its case to demonstrate that the building and site are unsuitable for agriculture.
8. The requirement in The Town and Country Planning (General Permitted Development) (England) Order 2015 (Part 6, Classes A and B - 'Agricultural and Forestry') states that buildings and other works must be "reasonably necessary for the purposes of agriculture within that unit". However, this relates solely to the consideration of whether a proposal would be permitted development. It does not relate to whether a proposal amounts to agriculture under the listed exception to inappropriate development in the Green Belt.
9. For the reasons of security of equipment and animal husbandry, it would be reasonable to have a building in place before the agriculture holding comes into being. Under the Framework, there is no criteria which states that the holding must be established before a building can be considered agricultural. Furthermore, a planning condition could be imposed to require the building to be agricultural. Accordingly, the proposal would be an exception to inappropriate development under the Framework and Policy DM6 of the CLP on the balance of evidence before me.

Openness of the Green Belt

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. However, the impact on openness is implicitly taken into account in the exceptions unless there is a specific requirement to consider the actual effect on openness. There is no such requirement here and therefore, there is no need to assess the impact of the development on the openness of the Green Belt.

Character and appearance

11. The surrounding area consists of ribbon residential development and sporadic sited dwellings surrounded by countryside. Many of the dwellings have extensive curtilages/land. There are rural buildings in large plots as well.

Visible from the appeal site, there is an extensive group of buildings to the rear on one side whilst on the other side, there are smaller outbuildings associated with horses and other uses. Nevertheless, the area is largely undeveloped with fields/paddocks and established landscaping, and therefore, it has an attractive rural character and appearance.

12. The proposed building would be substantial in size given it's three bay width and its height, with pitched roof, of approximately 7m. It would be remote from the existing built form of the dwelling and stable block and in an undeveloped part of the site. Any building would be visible from the surrounding countryside, especially in winter due to the mainly deciduous nature of vegetation around the site, and in particular from more open areas to the south and east of the site. As a result, there would be significant harm to the character and appearance of the area.
13. Access to the building is not part of the proposal and under the prior approval procedure, the Council can assess any proposal for a private way. However, this consideration remains relevant because in practice it is likely to be difficult to resist such pressure for a new track in the long term given the location of the building, the equipment within it and the grassy nature of the field between it and the hardstanding serving the dwelling. The extent of an additional track would be result in further detrimental visual impact.
14. Policy S11 of the CLP requires a careful balance between the requirement for new development within the countryside to meet identified development needs and to support thriving rural communities, and to ensure that development does not have an adverse impact on the different roles and character of the countryside. By reason of the significant harm to the character and appearance of the area, it would not achieve this balance and would be contrary to it.

Other matters

15. Machinery, including a tractor, need to be kept under cover for security but this requirement does not fit comfortably with the location of the building so far distant from the dwelling on the site. Accordingly, this consideration would be of limited weight in any planning assessment.

Conclusion

16. The proposal would be an exception to inappropriate development and therefore, there would be no conflict with CLP Policy DM6. However, there would be harm to the character and appearance of the area and there would be a conflict with CLP Policy S11. Such harm would be significant for the reasons indicated and consequently overriding, and the proposal would conflict with the development plan taken as a whole. There are no considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be refused. Therefore, for the reasons set out above and having regard to all other matters raised, this appeal is dismissed.

Jonathon Parsons

INSPECTOR