



Appeal Decision

Site visit made on 18 November 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/W1905/W/20/3255102

Land adjacent Tudor Farm, West End Road, Broxbourne, Hertfordshire EN10 7QB

- 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 Ms Amy Spires against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0975/F, dated 8 November 2019, was refused by notice dated 13 January 2020.
 - The development proposed is described as '*proposed barn to land adjacent Tudor Farm, West End Road, Broxbourne, Herts EN10 7QB*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I carried out an unaccompanied site visit where I observed the frame of the proposed development had been erected. The application form states work commenced in July 2019 and I have determined the appeal on this basis.
3. During the determination of the appeal I was made aware that the Broxbourne Borough Council Local Plan 2018-2033 ('the LP') had been adopted on 23 June 2020 and the Council have provided me with the relevant policies.
4. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision. In the interests of natural justice both parties were given an opportunity to comment on the implications of its adoption for the appeal and I have had regard to the comments received.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the appeal site and area.
 - Whether the proposal would be inappropriate development within the Green Belt.

Reasons

Character and appearance

6. The appeal site is an open, undeveloped grassed field that slopes steeply up from West End Road. Other development exists within this rural area including residential, commercial and agricultural buildings and adjacent to the site I observed Tudor Farm and its complex of rural buildings and dwelling sited close to the road. There also appeared to be substantial built form to the north of the site, visible through mature boundary trees. Adjoining fields on the northern side of the road have a comparable open character and appearance which combined with the appeal site positively contributes to the rural character and appearance of the area.
7. In connection with its intended use as a barn for sheep, including separate pens and storage/feed areas this would be a building of a substantial size, approximately 30 metres in length and to a height of just below 9 metres. The proposed materials would be reflective of agrarian buildings per se, but the building would also be sited centrally in the site, with its longest elevation parallel to the road, and on what appeared to be the top of the slope. In combination with the use of dark stained boarding and light green metal sheet roofing with 10 translucent sheet panels, in this particular context the proposal would appear overly prominent and unduly dominant and the eye would be unacceptably drawn to it. It would harmfully diminish the sense of openness of the appeal site and the positive contribution it currently makes.
8. The appellant refers to the existence of substantial trees and hedgerows along the boundaries, but the appeal form also states access onto the site was not required for the site visit because the relevant parts of the appeal site could be seen sufficiently from public land¹. Having visited the site, the existing steel frame is conspicuous through gaps in the landscaping along the boundary with West End Road, from its access and to a lesser extent from Public Rights of Way within the vicinity of the appeal site². The effects would be evident, in particular during the winter months and detrimental to the visual interests of its surroundings.
9. For these reasons, the proposal would cause harm to the character and appearance of the appeal site and the area. It would conflict with Policy DSC1 of the LP insofar as it requires, amongst other things, a high standard of design and that development enhances local character and distinctiveness, having regard to existing patterns of development, building typology, significant views and height, roof form, materials, trees, landscaping and features of local significance.

Inappropriate development?

10. Policy GB1 of the LP states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. The proposal therefore falls to be assessed against Paragraph 145 of the Framework, which states that the construction of new buildings is inappropriate unless it is for one of 6 specified exceptions, set out in a closed list of bullet-points.

¹ Question G1 a) 'Choice of Procedure'.

² Hoddesdon 067 and 061.

11. The proposal is for a barn to be used in association with the breeding and keeping of rare breed sheep, an apparently endangered species albeit not protected for planning purposes. The appellant purchased a small flock of the sheep in 2019 and intends to grow the flock as part of a 'UK wide conservation program' to breed the sheep and reintroduce them to farms across the UK³, albeit no further details of the program have been provided.
12. Within this first issue, the critical test is whether the proposal is a building for agriculture. The definition of agriculture under Section 336 (1) of the Town and Country Planning Act agriculture includes 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly'.
13. For the purposes of agriculture this means the productive processes of agriculture, not the buying and selling of agricultural products. It is necessary to look at the nature of what is being done on the land and whether it can properly be said to be included in any of the things set out in the definition in s336(1). The conduct of a trade or business is not determinative in this instance.
14. Whilst I did not observe sheep on the appeal site the appellant's reasons for this relating to planning permission being refused and the time of year are plausible. The Council have also confirmed that 10 sheep were previously observed on the appeal site. I note the Council's concerns regarding the height of the proposal not being justified but such buildings are invariably designed to reflect their function. The building appears to me to be designed or is capable of use for the purposes of agriculture in terms of its physical appearance and layout.
15. Such a proposal should generally be determined as applied for unless the evidence firmly indicates that it would not be a building for agriculture or forestry⁴. The proposal may well be part of a wider conservation program but the breeding of rare breed sheep to then reintroduce onto existing farms for use in the farming of land would, to my mind, fall within the definition. There is no firm evidence before me to suggest otherwise. I therefore give the benefit of the doubt to the appellant and find that for the purposes of this particular appeal, the proposal should be regarded as a building for agriculture.
16. For these reasons, the proposal would not be inappropriate development within the Green Belt and in this particular case, benefits from the exception in Paragraph 145 a) of the Framework. Policies GBC1 and GBC3 as referred to in the Council's decision notice no longer form part of the adopted development plan and are not relevant.
17. I see no reason why my finding in relation to this issue, which has been made solely on the evidence as put to me by the parties and my own observations, would undermine the Councils ability to exercise its judgement in relation to

³ Planning Strategy: Design & Access Statement.

⁴ *Belmont Farm Ltd v MHLG [1962]*.

similar development proposals on this or other sites, especially because each case is determined on its own merits.

18. In terms of effects on openness I have concluded that the proposal would not be inappropriate development. In accordance with established case law⁵ it should not be regarded as harmful either to openness of the Green Belt or to the purposes of including land within it. Because of my findings it is also not necessary to consider whether very special circumstances exist.

Other Matters

19. I note concerns about security but there is nothing substantive to indicate why the building is required to be sited in that location or that it could not be sited elsewhere on the site. Although the appellant states that adjoining landowners have not objected to the proposal, a representation has been made by one such landowner and in any event, I must consider the proposal on its own planning merits. Thus, none of these other considerations, on their own or in combination, alter my view to dismiss this appeal.

Conclusion

20. Although I have found the proposal should not be regarded as being inappropriate development in the Green Belt, I have found that the proposal would cause harm to the character and appearance of the appeal site and area.
21. In my view, that is the prevailing consideration and the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan.
22. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

⁵ *Lee Valley Regional Park Authority, R (on application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404.