



Appeal Decision

Site visit made on 23 March 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/D2320/C/20/3262837

Land at Haydock Farm, Preston Road, Charnock Richard, Chorley PR7 5HR

- 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 Mrs Elizabeth Taylor-Jones against an enforcement notice issued by Chorley Borough Council.
- The enforcement notice was issued on 29 October 2020.
- The breach of planning control as alleged in the notice is Unauthorised erection of two wooden cattery units and associated hardstanding on the Land.
- The requirements of the notice are Removal of the two unauthorised cattery units and hardstanding and return the Land to its previous state.
- The period for compliance with the requirements is three months.
- The appeal is made on the grounds set out in section 174(2)(a) and (e) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and permission for that part is granted but otherwise the appeal fails, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Council has set out that the reason for issuing the notice is that the alleged development does not benefit from planning permission, with this previously having been expressly refused in relation to one of the cattery buildings¹. The reasoning is therefore somewhat vague, as it is unclear from the notice itself what harm the buildings are alleged to be causing.
2. However I am satisfied, having read the various representations, that the reason for refusal of planning permission would have related to Green Belt harm, that this would have been known to the appellant and that in any event the appellant has had the opportunity to respond to the representations in the Council's statement. Therefore whilst the reason for the notice should have been made clearer, I am satisfied that in this case it has not resulted in injustice to the appellant.
3. The appellant has referred to the appeal site as 'brown belt' land. I am not sure what is meant by this, however no evidence has been provided to contradict the Council's position that the site is within the Green Belt. There is nothing to persuade me that the site should not be regarded as part of the Green Belt.

¹ Planning application referenced 19/00736/FUL – refused 19 September 2019

4. The appellant has stated that the hardstanding has been in place for over 65 years. In the interests of fairness I therefore need to deal with this point as a 'hidden' ground (d) appeal, namely that at the time the notice was issued no enforcement action could be taken. I am also satisfied that this can be done without resulting in injustice to the parties.

The appeal on ground (d)

5. As set out above this ground of appeal is relevant to the hardstanding area, rather than the cattery buildings. In order to succeed on this ground it would be necessary for the appellant to show, on the balance of probability, that the hardstanding was substantially completed at least 4 years before the notice was issued, that is by 29 October 2016.
6. However, aside from the above claim, the appellant has provided no evidence in support of this point at all. The ground (d) appeal must therefore fail.

The appeal on ground (e)

7. This ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. The appellant's case on ground (e) appears to be that the basis of complaints against the development have not been explained to them. They also question whether the Council has followed its own Local Enforcement Plan as they do not consider that it has allowed for negotiation and the submission of a retrospective planning application.
8. However, these points do not relate to whether the notice was correctly served in accordance with the relevant regulations. The regulations state that the local planning authority may issue a notice where it appears to them that there has been a breach of planning control and that it is expedient to issue the notice. No evidence is provided that the notice was incorrectly served and indeed the appellant has stated that the notice was served on the correct person. There is no suggestion that any other person has been prejudiced.
9. The appellant has suggested that the plan attached to the enforcement notice does not relate to the correct area. However, I am satisfied that the area identified on that plan includes the site of the alleged development and, from the representations, that there has not been any misunderstanding regarding the nature of the development targeted by the notice. Consequently the appeal on ground (e) fails.
10. The various concerns that have been raised about the Council's conduct and the way it has handled this case would need to be taken up by the appellant directly with the Council and are not matters for my consideration.

The appeal on ground (a)

Main Issues

11. The appeal on ground (a) is that planning permission should be granted. The main issues are:
 - whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the development on the openness of the Green Belt;

- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The cattery buildings

'Inappropriate' Development

12. Paragraph 133 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
13. Paragraph 145 of the Framework establishes that new buildings within the Green Belt are 'inappropriate' unless the type of building falls within a limited number of exceptions. These exceptions include buildings for agriculture and forestry; the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
14. The buildings that are the subject of the notice comprise two cattery units, each divided into a series of individual pens and constructed in timber. They are not therefore buildings for agriculture. Whilst the appellant states that the buildings replace caravans previously stored on the land, this would not fall within the definition of building replacement for the purposes of the Framework.
15. Furthermore I have been provided with very little information regarding the use of the land for caravan storage purposes. There is a lack of evidence that caravan storage, itself, constitutes a lawful use of the land. In any event, even if this was the case, a previous caravan storage use would not meet the definition of previously developed land, as set out in the Framework, on the basis that a caravan would not be regarded as a permanent structure. The development would not therefore equate to the infilling or redevelopment of previously developed land.
16. I have not been provided with any information to suggest that the buildings would meet any other exceptions to inappropriate development in paragraph 145 of the Framework. For the aforementioned reasons I conclude that the buildings constitute inappropriate development in the Green Belt.

Openness

17. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development, including the

suitability of materials used, in itself, or its effect on the character and appearance of the area.

18. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect². The units are relatively short structures with shallow pitched roofs. They are located either side of a stable building, and close to the main cluster of existing buildings within and adjacent to the farm complex, which include large sheds and two dwellings.
19. By their nature the buildings take up space and inevitably, from close range views within the site, are seen to be occupying space that would previously have been free from built development. However from viewpoints along the main road to the north and south of the site, the structures are either substantially screened by, or viewed against the presence of, larger existing buildings. The presence of mature planting also assists with screening from certain directions.
20. The effect of this is that from further away, when taking into consideration the limited scale of the units, the eye does not tend to be drawn to the cattery buildings as features that, within their context, impact significantly on the openness of their surroundings. Overall I consider that the cattery buildings result in limited harm to the openness of the Green Belt. However, the appeal site is part of the countryside and although the harm is limited, the buildings are nevertheless still visible and encroach on the countryside to a degree. They are therefore in conflict with one of the purposes of the Green Belt.

The hardstanding

21. Paragraph 146 of the Framework states that certain other forms of development are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The other forms of development referred to include engineering operations.
22. The hardstanding areas, associated with the cattery buildings, comprise of concrete pads, on which the buildings are sited; some concrete paving stones providing a path between the buildings and a small area of tarmac between one of the buildings and the main driveway into the site. These hardstanding features are limited in area and do not add any built volume. I am therefore satisfied that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. I find that the hardstanding does not constitute inappropriate development in this case.

Other Considerations

23. I have had regard to the appellant's representations in support of the appeal. I understand that at least one of the buildings was erected on the site as an emergency response to a flooding issue that had occurred where the building was previously sited. Whilst I have sympathy with the appellant's circumstances, I am unable to conclude, from the information before me, that the flooding issue could not be addressed or that a more suitable location outside the Green Belt could not be used and that this is the only alternative site available. This consideration therefore attracts only very limited weight in the planning balance.

² *Turner v SSCLG & East Dorset Council* [2016]

24. I acknowledge that Policy 13 of the Central Lancashire Core Strategy 2012 (CS) states that the growth of rural business will be supported, subject amongst other things to the purposes of the Green Belt not being undermined. I have no reason to doubt the appellant's point that the business has been sustained with a loyal customer base. However, as set out above, I am not persuaded that it must be in this location. I therefore give moderate weight to business support considerations.
25. I would agree that the scale and appearance of the buildings do not appear incongruous in this rural setting and I am not persuaded that they result in encroachment on neighbouring property. However the lack of harm in this specific regard is a neutral consideration.
26. I have considered above the appellant's point that the site was previously used for caravan storage, in the context of whether the proposal amounts to inappropriate development in the Green Belt. Aside from this I have been provided with little information regarding the scale and duration of this use, including the frequency of any comings and goings; it is uncertain whether the use is lawful and in any event, from what I noted during my visit, it would appear to be continuing. It is not therefore clear that there is an obvious choice to be made between the relative merits of having the cattery buildings or having a specific level of caravan storage instead. The fact that caravan storage may represent a fallback position for the appellant does not therefore carry any significant positive weight in the overall planning balance, based on the information before me.
27. There have been no objections from third parties to the development, with one of the adjacent occupiers stating that the buildings, when compared with caravans, have resulted in an improvement to outlook from their property. However, I have set out above that I cannot be certain that the caravan storage constitutes a lawful use of the site, and that in any event it was apparent from my visit that an element of caravan storage continues to take place. I therefore give very limited positive weight to this consideration.

Green Belt balance

28. National planning policy attaches great importance to Green Belts. Therefore when considering any planning application substantial weight should be given to any harm to the Green Belt.
29. With regard to the buildings I have found harm to the Green Belt by way of inappropriateness and to its openness, albeit that the latter harm is limited.
30. I have balanced the harm to the Green Belt against the other considerations referred to above. However for the reasons given, having also had regard to all other points raised by the appellant and to supporting comments from local residents, they do not clearly outweigh the harm identified.
31. The very special circumstances necessary to justify the development have not therefore been demonstrated. Consequently the buildings conflict with the Green Belt protection aims of the Framework and with Policy 13 of the CS. The ground (a) appeal therefore fails with regard to the buildings.
32. With regard to the hardstanding I have found that this does not result in harm to the openness of the Green Belt and does not therefore constitute inappropriate development. Consequently it conforms with the Framework.

The ground (a) appeal therefore succeeds in respect of this element of the development.

Conclusion

33. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.
34. Section 180 of the Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently the notice ceases to have effect with regard to the hardstanding, because this benefits from planning permission and is therefore lawful for planning purposes.

Formal Decision

35. The appeal is allowed insofar as it relates to the hardstanding 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 operational development consisting of the creation of hardstanding, on Land at Haydock Farm, Preston Road, Charnock Richard, Chorley PR7 5HR.
36. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the buildings, and planning permission is refused in respect of the erection of two wooden cattery units on Land at Haydock Farm, Preston Road, Charnock Richard, Chorley PR7 5HR on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Roy Merrett

INSPECTOR