

Appeal Decision

Site visit made on 19 March 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 30 April 2021.

Appeal Ref: APP/M3645/W/20/3256160

Lodge Farm, Lingfield Common Road, Lingfield, RH7 6BZ

- 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 Southern Slurry Ltd against the decision of Tandridge District Council.
 - The application Ref TA/2020/385, dated 25 February 2020, was refused by notice dated 18 June 2020.
 - The development proposed is the erection of an agricultural barn.
-

Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on character and appearance, residential amenity, ecological matters and highway safety.
3. The further main issue is, if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development and effect on openness

4. The Framework states that the construction of new buildings should be regarded as inappropriate in Green Belt. Exceptions to this are listed in paragraph 145 of the Framework, which includes buildings for agriculture and forestry.
 5. Policy DP10 of the Tandridge Local Plan 2014-2029 (adopted 2014) (LP) states that within the Green Belt planning permission for any inappropriate
-

- development will normally be refused. Policy DP13 allows for the construction of new non-residential buildings directly related to agriculture or forestry.
6. The building proposed in this appeal is described as an agricultural barn to be used for the raising of dairy bull calves. The application described 100 calves to be raised from the age of 3-5 days, housed within the barn in 4 bays of 25, and kept in the barn for 12 weeks before selling on.
 7. The evidence presented to me by the appellant, the Council and by third parties indicates a mix of uses has occurred in the past and at present on the wider area of land within which the proposed barn is shown to be sited. This does appear to include agricultural use. It also appears to me that the appellant has some agricultural experience. However, I share the concerns of the Council and third parties regarding the suitability of the barn for the proposed enterprise.
 8. The appellant has provided me with extracts from an Agricultural and Food Development Authority's (AFDA) publication that provides guidance on Calf House Management, Individual and Group Housing, and Ventilation, and I consider this to be a material consideration of significant weight in assessing this appeal. My attention has been drawn by third parties to guidance in that publication that states a maximum of 50 calves per calf house should be kept and that says that calves should not be kept in groups of more than 12. With 100 calves proposed to be kept, and in groups of 25, the proposal would not accord with this recommended practice.
 9. In addition, the Council have drawn my attention to their agricultural advisor's reference to the DEFRA Code of Recommendation for the Welfare of Livestock, which sets out the Agriculture and Horticulture Development Board recommended space requirements for calves and cattle. This is a material consideration of significant weight. The publication takes into account the weight of calves as they grow and shows that, by the 12 week stage, the proposed building has a floor area lower than the minimum statutory area (and considerably lower than the recommended area). Thus, even if 100 calves were to be kept in the barn, I share the Council's concerns that this would not meet required standards of animal welfare. The Council further state there is a requirement for isolation pens, and I note such advice is also contained in the AFDA publication. There are no details about the layout of barn to show any such facilities or any other design matters to ensure good farmer/stockperson regimes within the building.
 10. The barn is entirely open sided, with the appellant stating that the intention is to prevent a draught-free environment by installing protective material on, and placing hay bales around, the sides of the building. This is said to represent standard animal husbandry. However, my reading of the AFDA publication is that is a temporary solution in open-sided buildings, with the publication referring to good practice seeing solid pen divisions for a calf house building. I am therefore not persuaded that, when planning a building that is said to be specifically to house calves, that it is a sound approach to provide an entirely open building with no works on the walls or inside to ensure a long-term satisfactory environment for the livestock. The Council's concerns on this matter reinforce my view.

11. The appellant has offered a planning condition to reduce capacity of the building to 70 calves, but this would still be in excess of the AFDA's publication and also not address the other shortcomings of the building that I have identified. I also consider that a 3 month temporary permission would not be suited, since the shortcomings of the scheme are evident to me at present.
12. On the basis of all I have read and seen, it is my judgement that the building proposed in this appeal is not suited to the proposed use, and hence is not directly related to agriculture. The proposal therefore represents inappropriate development that is, by definition, harmful to the Green Belt and in conflict with the Framework and Policies DP10 and DP13 of the LP. I attach substantial weight to this harm.
13. The proposed barn would be erected on an area of land currently free from development. This would lead to a material reduction in the openness of the Green Belt. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl and keep land permanently open, and that the essential characteristics of Green Belts are their openness and permanence. The siting and scale of the proposed development would directly contravene this purpose and I attach significant weight to this harm to openness.

Character of area

14. In light of my earlier findings it follows that erection of the building of the size and location shown would be harmful to the character and appearance of the rural area through the provision of a large building that is not suited to the proposed use, not directly related to agriculture, and would harm the openness of the Green Belt. This would be contrary to Policy CSP18 of the Tandridge Core Strategy 2008 (CS) and Policy DP7 of the LP, which amongst other matters seek a high standard of design in new development that respects the character of the area. I attach moderate weight to this harm.

Neighbouring amenity

15. The proposed building would be distant enough from houses to the south and west to not be intrusive upon their outlook or cause levels of harm arising from noise. The level of traffic that would be generated by the proposed development would not be at a level intrusive to the enjoyment of that property through disturbance or loss of privacy.
16. However, the proposed barn would be sited close to the houses and amenity land of Nursery Gardens and Yew Tree Cottage to the north and north east. From my observations at the site I consider this close proximity of an open-sided building to house the proposed quantity of calves is likely to lead to unreasonable disturbance to neighbouring occupants by virtue of odours and noise from the livestock, and noise from associated livestock management operations. This would conflict with Policy CSP18 of the CS and Policy DP7 of the LP, whose provisions seek to ensure that new development does not significantly harm the amenity of neighbouring properties. I attach moderate weight to this harm.

Ecology

17. The Council's third reason for refusal relates to potential harm to biodiversity and ecology matters. The Delegated Report shows this refusal arose due to a third party comment that there were Great Crested Newts 'near to the site'. However, no further details about any such potential were submitted during the course of the application, nor at the appeal stage, with only generalised assertions on the potential for protected species being put to me by the Council and third parties.
18. I saw at my site visit the proposed development would occur on an area of cropped grass within the field, and the appellant states there is no firm evidence to indicate an ecological survey is necessary. Policy DP19 of the LP states that permission will be refused for development that directly or indirectly affects protected species. Based on the evidence before me I am not persuaded that the proposed development would lead to any such harm, and hence I consider no conflict would occur with Policy DP19, nor with Policy CSP17 of the CS.

Highway safety

19. Vehicular access to the site is via a track from Lingfield Common Road. I note third party comments stating that this is not in the appellant's ownership. Any right to cross that land is a private matter between the appellant and the relevant landowners. From what I saw at the site visit, and from the submitted information, it appears to me that vehicles accessing the appeal site can manage to navigate the lane and the junctions, albeit that care must be taken; any damage to the track is also a private matter between the appellant and the landowner.
20. I note third party comments relating to the potential for conflict between users of the track, but based on the level of traffic using the track – including any possible higher estimate in use as raised by third parties – I consider that there is sufficient space and capacity for vehicles to enter the appeal site to load/unload, and that instances of conflict between vehicles would be very low. I therefore conclude there would be no harm to highway safety and hence no conflict with Policy CSP12 and Policy DP5 of the LP. The absence of any objection on this matter from the Highways Authority reinforces my conclusion on this matter.

Other considerations

21. The Framework advises that 'very special circumstances' to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. I acknowledge an agricultural use would provide benefits from the production of food and would provide employment in the rural area. Hence it would further the economic objective of the Framework. However, I have found that the proposal in this appeal would not be suited to the proposed use and so I attach little weight to this matter.

23. I therefore do not consider the matters raised in support of the proposals to clearly outweigh the substantial weight which must be attached to the harm to the Green Belt by reason of inappropriateness, and the other harm arising from the proposal.

Conclusion

24. For the reasons given, the conflict with national and local planning policy means that the appeal fails.

C J Leigh

INSPECTOR