



Appeal Decision

Site visit made on 15 March 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th June 2021

Appeal Ref: APP/N4720/W/20/3265727

Valley Side Farm, Rakehill Road, Barwick-in-Elmet, Leeds LS15 4JJ

- 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 Matthew Verity-Talbot against the decision of Leeds City Council.
 - The application Ref 20/02625/FU, dated 4 May 2020, was refused by notice dated 6 November 2020.
 - The development proposed is described on the application form as 'Full Planning Permission for a purpose built agricultural building to provide housing for the Applicants cattle and to provide ancillary produce storage'.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a purpose built agricultural building to provide housing for the applicant's cattle and to provide ancillary produce storage at Valley Side Farm, Rakehill Road, Barwick-in-Elmet, Leeds LS15 4JJ in accordance with the terms of the application Ref 20/02625/FU, dated 4 May 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Block Plan – Proposed Building at Valley Side Farm; Proposed Floor Plans and Elevations.

Application for costs

2. An application for costs was made by Mr Matthew Verity-Talbot against Leeds City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council have described the development as '*construction of agricultural building*'. However, this is different to what the appellant has stated on their appeal form. Consequently, for the avoidance of doubt I have used the description of the development as stated on the appeal form as this is closer to what was stated on the original application form.
4. When on my site visit, I observed that a small wooden horse shelter structure and storage containers were on the appeal site. Notwithstanding these being in place, I have considered the appeal based on the plans originally submitted to and considered by the Council, which form the basis of the scheme that is before me.

Main Issue

5. The main issue is whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant Development Plan policies.

Reasons

6. The appeal site is situated just off Rakehill Road and is surrounded by more open agricultural land. While on my visit I observed that there was a large existing building on the site as well as several storage containers and other pieces of equipment such as trailers, a cement mixer and some large tyres. I also saw several mounds of what appeared to be builder's rubble and tarmac deposited at various locations within the site.
7. The *National Planning Policy Framework* (the Framework) states at paragraph 143 that inappropriate development is, by definition, harmful and should not be permitted except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate save for several specified exceptions including where the buildings would be used for agriculture. The Framework does not specify whether this agricultural use should be all-year-round or for a part of the year.
8. Policy N33 of the adopted Leeds Unitary Development Plan (UDP) sets out several types of development which would be allowed within the Green Belt other than those justified by very special circumstances. However, this approach is not entirely consistent with the Framework and consequently I afford this policy limited weight.
9. According to the appellant's evidence the proposed building would have five open-fronted bays and would be used for the keeping of livestock comprising suckler calves at certain times of the year. It is also stated that the existing building on the appeal site is not suitable for housing cattle and that this would be principally used for the storage of agricultural machinery and equipment for use on the holding as well as for other agricultural storage. This is disputed by the Council who allege that the existing building on the site is not currently used for agricultural purposes. They also consider that the size of the proposed 5-bay building goes above what is needed for agricultural use based on the size of the appellant's herd of cattle.
10. While on my site visit, I observed that this existing building was being used to store: several tractors; a trailer; a small bailer; and various other pieces of equipment. It also contained a relatively large raised office area taking up one corner of the building's interior. The existing building was also enclosed on all sides having no open fronted bays. As a result, while I consider that this building would likely be suitable for agricultural storage, it would not likely be suitable for the housing of livestock. Similarly, given that the entirety of the proposed building would be used to hold five bays with open frontages means that it would be unlikely to be used for storage or for any other purpose other than the housing of livestock.
11. Furthermore, the Council's agricultural surveyor's report also states that it might not be unreasonable for up to three bays of the proposed building to be used for the housing of livestock on the site as the existing enclosed general building is not suitable for cattle. This is also reflected in the Council's officer report. Therefore, even though the proposal would have five open fronted bays and be bigger than that suggested by the surveyor, this does not necessarily mean that it would not be an agricultural building or that it would not be used for agriculture at all.

12. Indeed, three bays could potentially be used for housing livestock with the other two being used for ancillary produce storage.
13. Consequently, the Council have accepted the need for an additional building to house livestock on the appeal site, even if according to the surveyor and officer report, this would only be for a 3-bay open-fronted one. Therefore, based on the evidence before me there is a need for an additional agricultural building on the appeal site to house livestock as the existing building would not be suitable for this purpose. Accordingly, I find that the proposed building would be for agricultural use, even though this would only be for part of the year.
14. I acknowledge that the Council's agricultural surveyor also states in their report, that the existing building, if fully utilised for on-site agricultural activity, would be sufficient for reasonable storage meaning that the need for additional storage would diminish. However, this does not mean that there would be no need for the proposed building to house livestock. Moreover, the fact that the proposal would be for a mix of livestock housing and agricultural storage also does not mean that it would not be solely used for agriculture.
15. I also acknowledge that the Council consider that the proposal would be inappropriate development due to its relatively large size. However, and being mindful of the Lee Valley judgement¹, the size (or location) of a proposed agricultural building has no bearing on whether it would be inappropriate development in the Green Belt.
16. The Council also state that should the appellant's current Farm Business Tenancy arrangements be terminated for any reason that the proposal as well as the existing building would become superfluous. However, I have no substantive evidence before me to suggest that this is the case. In any event, these buildings would only become superfluous in such a scenario if they were already fully utilised for agricultural use.
17. In their statement the Council have also indicated that a case for very special circumstances (based on need) has not been demonstrated in this case and that this has been compounded by the appeal site's planning history. However, the consideration of very special circumstances, as per paragraphs 143 and 144 of the Framework, only applies to inappropriate development in the Green Belt and not to buildings for agriculture which are deemed not to be inappropriate development as per paragraph 145 a).
18. I therefore conclude that the proposal would not be inappropriate development in the Green Belt in accordance with policy N33 of the UDP and paragraph 145 a) of the Framework.

Other Matters

19. The Council and interested parties have raised concerns relating to alleged unauthorised use of the existing building on the appeal site and also unauthorised use of the appeal site itself including the erection of temporary structures. I also note that the appellant has applied for planning permission seeking a retrospective change of use from an agricultural building to form part of an agricultural and plant machinery repair and sales business (ref. 20/04148/FU). However, these are not matters for me to consider as part of this section 78 appeal as enforcement issues and the determination of retrospective planning applications are something that should be dealt with by the local planning authority in the first instance.

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

20. Interested parties have also raised concerns in relation to highway safety. However, the Highway Authority have not objected to the proposal and I also have no substantive evidence before me to indicate that the proposal would cause any harm to highway safety.
21. None of the other matters raised alter or outweigh my conclusion on the main issue above.

Conditions

22. In addition to the standard implementation condition, I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of clarity. As enforcement matters are not something I can consider as part of this appeal decision, I have not imposed the condition suggested by the Council which would require the removal of the allegedly unauthorised storage containers from the appeal site.

Conclusion

23. The proposed agricultural building would not be inappropriate development in the Green Belt. It would therefore comply with policy N33 of the UDP and paragraph 143 of the Framework. Therefore, and having regard to all other matters raised, I conclude that the appeal should be allowed.

C Coyne

INSPECTOR