



Appeal Decision

Site Visit made on 8 June 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th June 2021

Appeal Ref: APP/B1550/W/21/3268802

Black Barns, Church Road, Hockley, SS5 6AE

- 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 Mrs L Cripps against the decision of Rochford District Council.
 - The application Ref 20/00981/FUL, dated 15 October 2020, was refused by notice dated 19 January 2021.
 - The development proposed is Retention and alterations to building to form 12 no. stables together with tack room; mess area; feed store; hay and bedding storage and machinery store all ancillary to existing use of the site for keeping of horses, use of all weather arena for private and group horse riding lessons and horse exercise.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including its effects on the openness of the Green Belt and the purposes of including land in it; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Background

3. There have been several planning applications for development at the appeal site. The most relevant of these to the current appeal are:
 - Planning application reference 07/00490/FUL (the 2007 permission) which was described as 'Construct pitched roofed building to provide 12 no. stables, feed, tack, stores, mess and office for full livery, pitched roof hay barn, form access onto Church Road and parking area and construct horse exercise manège'. The manège and hay barn were constructed.
 - Planning application reference 12/00530/FUL was granted at appeal under reference APP/B1550/A/13/2195359 in July 2013. The development was described as 'a redesigned stable block to replace existing stables approved under 07/00490/FUL'.

4. A retrospective application (reference 17/00614/FUL) to 'Retain the approved stable building for use as Class B1 (office), B8 (storage) and Equine/Agricultural use and change of use of Hay Barn for Mix of Employment Uses under Classes B1(a) and B8' was submitted in June 2017. It was refused on 15 August 2017 and was the subject of an Appeal. (APP/B1550/W/17/3191404)
5. The outcome of which was: The appeal is dismissed insofar as it relates to the retention of the Stables Building as constructed and for its use for a mix of Class B1 (office), B8 (storage) and equine/agricultural use to the previously approved Stables Building (App Ref: 12/00530/FUL). The appeal is allowed insofar as it relates to the Hay Barn (units 4 and 5) and planning permission is granted for the retention of alterations and change of use of the Hay Barn (App Ref: 07/00490/FUL) for the existing mix of employment uses within use classes B1(a) and B8.
6. The stable building is subject to an enforcement notice, which was upheld (subject to some corrections) at appeal (APP/B1550/C/18/3198426) and which requires the building to be demolished within 15 months from the date of the decision (10th March 2020).
7. A subsequent application (17/01090/FUL), relating only to the Hay Barn, was also submitted. The application was described as 'Retention of alterations and change of use of the Hay Barn (App Ref: 07/00490/FUL) for the existing mix of employment uses within classes B1(a) and B8'. This application was not determined by the Council and allowed on appeal (APP/B1550/W/18/3205858).
8. Planning permission was also granted in June 2014 for development described as *'form new gated entrance to approved livery stable development'*.
9. In 2020, a lawful development certificate to establish the construction of a building comprising 12 stables as granted planning permission under reference 07/0049/FUL may be constructed without further planning permission being required was refused. (20/00543/LDC)
10. The current appeal seeks to retain the Stable Building and alter it to provide 12 no. stable blocks with associated equine development.

Reasons

Inappropriate Development

11. The appeal site is situated in the Green Belt where the Rochford District Council, Local Development Framework Core Strategy 2011 (CS) policy GB1 directs development away from it as far as practicable and prioritises the protection of it. It highlights that the continuation of rural businesses will be encouraged as appropriate, as long as they do not significantly undermine the objectives or character of the Green Belt.
12. Policy GB2 of the CS sets out that outdoor recreation and leisure activities may be considered appropriate within the Green Belt, subject to issues pertaining to the purposes of the Green Belt. Development that is essential for outdoor sport and recreation activities will be expected to have minimal impact on the openness of the Green Belt.

13. Policy DM15 of the Rochford District Council, Local Development Framework Development Management Plan (DMP) provides support for equestrian development provided that the proposed stabling is modest and appropriate in scale and designed to minimise the potential detrimental impact on the openness of the Green Belt.
14. These policies reflect the aims of the National Planning Policy Framework (the Framework) and therefore I have attributed some weight to them, however they do not make reference to the exceptions listed within it. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
15. Paragraph 145 and 146 establish that buildings and other forms of development would be inappropriate unless they meet a listed number of exceptions. The building currently on the site is subject to an enforcement notice for its demolition and does not have the benefit of planning permission. Therefore, the proposal could not represent either a replacement building or an extension or alteration to the building. Therefore, I do not consider the development could comply with either Paragraph 145 (c) or (d).
16. The stable would be a facility for outdoor sport and recreation and would therefore be subject to Paragraph 145(b). This exception explains that such development would not be inappropriate development provided that it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. The five purposes of including land within the Green Belt are identified at paragraph 134 of the Framework. Of those, to assist in safeguarding the countryside from encroachment is appropriate to my consideration.
17. The essential characteristics of Green Belts are their openness and their permanence. Having regard to whether openness would be preserved, it is acknowledged that the exceptions set out within paragraphs 145 and 146 are generally considered to be acceptable in principle and any new development under these exceptions would erode openness to some degree, but this in itself would not always fail to preserve openness. Policy GB2 of the CS and Policy DM15 of the DMP, acknowledge this by requiring development to minimise the detrimental impact on the openness of the Green Belt.
18. The Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result, but equally this does not mean that the openness of the Green Belt has no visual dimension.
19. The building currently on the site is subject to an enforcement notice for its demolition and does not have the benefit of planning permission. Therefore, the correct approach is to consider the impact or harm, if any, wrought by the construction of the building, which depends on a number of factors, such as the scale of the development and its spatial and visual implications.
20. The appeal site is located off Church Road, via a gated access and roadway which leads into the site. The site is surrounded by open grassed areas and paddocks and the riding arena located to the front of the existing building. Adjoining the site is the Hay Barn, which benefits from planning permission.

21. The stables would be located with its longest elevation parallel to Church Road, however whilst the proposed building would be seen within the context of the existing buildings and would be screened from the road by landscaping, it would be a substantial structure where previously no building existed and would result in a significant increase in built form within the site. Therefore, it would result in moderate harm spatially to the openness of the Green Belt and fail to assist in safeguarding the countryside from encroachment.
22. The appellant has provided a Green Belt appraisal, produced by The Landscape Partnership. However, its assessment focuses predominately on the basis of conversion and alteration of the existing building, which as set out above is not the relevant starting point, given that the building is unauthorised. Nonetheless, it concludes that the existing building exerts a small and localised effect on landscape character and also acknowledges that it has some small effect on openness.
23. In this instance the stable building would clearly be experienced both visually and spatially, although due to the building being located close to existing buildings the visual impact on openness would be localised and limited. However, in this respect even a limited adverse effect on openness cannot be said to preserve the openness of the Green Belt as required by Framework paragraph 145 b) and would contribute to the overall harm to the Green Belt.
24. The proposal has failed to minimise the impact on the Green Belt, by virtue of its overall size and scale which is greater than that permitted by Policy DM15 which requires proposals to be small scale (limited to fewer than 10 stables). Whilst the paddock land available could accommodate 12 stables, I have not been provided with sufficient evidence to demonstrate that the need for the two additional stables is justified or that sufficient demand exists for this scale of development.
25. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 143 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, it conflicts with the purpose of the Green Belt in Framework paragraph 134 c), namely to assist in safeguarding the countryside from encroachment.
26. The development would fail to accord with Policy GB2 of the CS which advises that only development that is essential for outdoor sport and recreation which is appropriate will be permitted. It would also be contrary to Policy DM15 of the DMP, which requires development to minimise the potential detrimental impact on the openness of the Green Belt.

Other Considerations

27. As set out above, the development constitutes inappropriate development in the Green Belt. I have found it to result in moderate spatial harm and limited visual harm in terms of loss of openness to the Green Belt. Paragraph 144 of the Framework states substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
28. I have had regard to the findings of the Inspector in APP/B1550/A/13/219530 (A2013) and my conclusions in relation to whether the development would be

inappropriate development in the Green Belt in terms of the impact on openness are consistent with that decision. In that case the Inspector found that very special circumstances existed as a result of the credible fall back position afforded by 07/00490/FUL and therefore the harm to the openness was outweighed by these other considerations.

29. The conclusions of the Inspector in APP/B1550/C/18/3198426 (A2020) raise considerable doubt as to whether the development approved under 07/00490/FUL or A2013 is capable of implementation. The recently refused Lawful Development Certificate adds further to this uncertainty. Therefore, there is no compelling evidence before me that the fallback position that the Inspector in A2013 considered constituted very special circumstances still exists. As a result, I can only attribute the previous approvals very limited weight.
30. Policy DM15 of the DMP supports equestrian development on the basis that the proposed stabling, and other facilities are modest and appropriate in scale and designed to minimise the potential detrimental impact on the openness of the Green Belt. Given my findings on openness, there is conflict with the policy in that regard and the number of stables would also exceed those envisaged by the policy and this conflict weighs against the scheme. However, I acknowledge that there are some aspects of the scheme which accord with the other criteria of the policy, including the proximity to existing bridleways, the number of stables proposed which would not exceed the size requirements in relation to the existing site area, the proximity of the site to existing settlements and that there is nothing before me to indicate that the use would have any detrimental effect on local amenity. As a result, I have attributed modest weight to those benefits.
31. The proposal would also result in some benefits arising from creation of new equine related jobs. However, the evidence before me is not robust in terms of where these would come from, as it is not clear whether the site would become a full livery yard or a mix of private or DIY livery, or provide any other equestrian related activities. In addition, the evidence indicates that the site is already in use for equestrian purposes and therefore some of these jobs may already exist. As a result of the lack of evidence in this regard I have given this benefit limited weight.
32. There would also be recreational benefits arising from the access to the purpose built arena, albeit the evidence indicates that the site is part of an established equestrian facility and the arena is already in use. Therefore, I have attached limited weight to these benefits.

Conclusion

33. In summary, the proposal is inappropriate development in the terms set out by the Framework and fails to preserve the openness of the Green Belt. Having taken into account the other considerations outlined above, they do not outweigh the substantial weight which must be given to Green Belt harm, and therefore they are not sufficient to demonstrate very special circumstances.
34. The proposal would fail to comply with policies GB1 and GB2 of the CS and be contrary to policy DM15 of the DMP, which together direct development away from the Green Belt as far as practicable and requires development to minimise the potential detrimental impact on openness.

35. The proposal would therefore conflict with the development plan and there are no other considerations that outweigh this conflict. For the reasons given above I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR