
Appeal Decisions

Site visit made on 5 November 2021

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal A: APP/N3020/C/21/3268968

Appeal B: APP/N3020/C/21/3268969

Agricultural land to the north of Ashvale Farm, Bank Hill, Woodborough NG14 6EF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr John Gratton-Fisher (Appeal A) and Mrs Suzanne Gratton-Fisher (Appeal B) against an enforcement notice issued by Gedling Borough Council.
 - The enforcement notice was issued on 28 January 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of an unauthorised building intended for a domestic and leisure use, engineering works to raise land levels and the construction of an earth bund.
 - The requirements of the notice are:
 - i. Demolish the unauthorised building
 - ii. Remove the unauthorised raised earth, hard core and concrete platform
 - iii. Remove the earth bund
 - iv. Remove all resulting rubble and waste materials to a point of lawful disposal
 - v. Restore the land to its previous condition
 - The period for compliance with the requirements is 3 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2)(f) only.
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Decisions

1. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a)

Main issues

2. The site lies within the Green Belt. As a consequence, the main issues are:
 - Whether the building is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt.
 - Its effect on the character and appearance of the area;
 - Its effect on the living conditions of neighbouring occupiers, with particular regard to any noise or disturbance arising from the development; and

- Whether any harm due to 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.

Whether the development is inappropriate within the Green Belt

3. The appellant's home at Ashvale Farm is reached via a long, curving access drive. The appeal site is part of a field close to the house, on the other side of the access drive. The building is a wooden, single storey structure, with a pitched roof. It has a log cabin type of appearance and is laid out inside with leisure use in mind, with seating and a drinks bar. It is situated on a concrete base which is significantly larger than the building itself. Chairs and tables were positioned outside the building when I saw it. The sloping site has been levelled by adding material, so that it is significantly above the natural ground level at one end of the site. A post and rail fence has been erected, separating the site of the building from the rest of the field.
4. To the other side of the fencing, an earth bund has been formed. The appellant says that it is formed of mud scraped from the gateway. Nevertheless, it is a significant and noticeable feature and is in a position where it reinforces the separation of the area where the building is located from the remainder of the field and provides a degree of screening. Consequently, I regard the building (complete with the associated levelling works) and the bund as part and parcel of the same development.
5. None of the development plan policies raised set out a detailed approach to development in the Green Belt, but this is provided by the Framework. This advises at Paragraph 149 that, other than in the case of a number of specified exceptions, the construction of new buildings within the Green Belt is inappropriate. The appeal development falls to be considered under this paragraph. None of the exceptions listed at Paragraph 149 apply in this instance. Accordingly, the building and associated works are inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances.

Openness

6. This is an entirely new building where none stood before. Consequently, it has eroded the openness of the Green Belt, albeit to a small degree, commensurate with the scale of the building. The Framework advises that openness is one of the essential characteristics of Green Belt.

Character and appearance

7. The structure has the appearance of a log cabin or ski lodge, and is of a type that would typically be found in a residential garden. The large concrete area around the building is apparently used for sitting out, reinforcing the impression of a garden-type use. Its domestic appearance means that the building is incongruous in its setting in a field, away from the appellant's house and garden. Although some views of the building are limited due to vegetation, it is open to views across the fields to the north, including from a public footpath. Consequently, it harms the rural character and appearance of the countryside in which it is located. This brings it into conflict with Policy LPD19

of the Council's *Local Planning Document Part 2 Local Plan*, which is concerned with landscape character and visual impact.

Living conditions

8. The building is located well away from the nearest of the appellant's neighbours. It is also a fairly modest building. Consequently, it seems unlikely that, even if used for socialising and parties, it would cause unacceptable levels of noise and disturbance to neighbouring occupiers, and I find no conflict with the amenity aims of Local Plan Policy LPD32.

Other considerations

9. The appellant advises that the building provides a safe and comfortable space for use in connection with the keeping of sheep, but I have insufficient information to demonstrate any clear need for that purpose. I am also told it supports the wellbeing of a family member who has struggled with the recent lockdowns. While I sympathise with this, it is not clear to me that any such benefits can only be provided by the building in this location. Accordingly, I attach little weight to these considerations.
10. The appellant argues that the building is surrounded by larger, similar buildings. However, the appeal site is significantly contained by trees and does not relate visually to any nearby buildings of a comparable domestic appearance, or to the wind turbine to which the appellant refers. Although wooden, the building, complete with the associated ground works, is of fairly substantial construction and does not have the appearance of a temporary building.
11. The appellant advises that the site was in a mess before the development took place, but I cannot see that improving its appearance was dependant on this development. While new tree planting could limit views of the building, it would not alter the fundamentally domestic character of the building and the harm that causes.

Conclusion – the appeal on ground (a)

12. I attach substantial weight to the harm to the Green Belt. Having considered the matters raised in support of the development, as outlined above, I conclude that they do not clearly outweigh that harm. Accordingly, very special circumstances do not exist, and the development is at odds with the Green Belt policy set out in the Framework. While I have not found harm in respect of the effect of the development on living conditions, considered as a whole, there is conflict with the development plan. I therefore conclude that the appeal on ground (a) should fail.

The appeals on ground (f)

13. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In this case, the notice requires the removal of the building and bund in their entirety. This is consistent with the purpose of remedying the breach of planning control in accordance with s173(4)(a).

14. Appeals on ground (f) are made on the basis that the requirements of the notice are excessive. In this case, the appellants have not stated specifically why the requirements are excessive or how the requirements should be changed. However, it is stated that they would be willing to remove the earth bund and it therefore appears that the suggestion is that the notice should be modified to make this the sole requirement.
15. However, the purpose of the notice is to remedy the breach of planning control arising from the construction of the building and the associated works. In these circumstances, it is not excessive to require the building's removal. Indeed, removal of the building is a necessary step in order to remedy the breach of planning control, and to change the requirements as the appellants seek would fundamentally undermine the purpose of the notice. Accordingly, the appeals on ground (f) fail.

Peter Willows

INSPECTOR