



Appeal Decision

Site visit made on 29 November 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2022

Appeal Ref: APP/R3650/W/21/3267787

Brooklands Farm, Pepperbox Lane, Bramley, Guildford GU5 0LW

- 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 & Mrs Shaw against the decision of Waverley Borough Council.
 - The application Ref WA/2020/0663, dated 9 April 2020, was refused by notice dated 22 December 2020.
 - The development proposed is described on the application form as, "replacement agricultural barn, to be rebuilt in accordance with alterations approved under application WA/2019/1739 (partially retrospective)".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement barn for storage use for agricultural purposes at Brooklands Farm, Pepperbox Lane, Bramley, Guildford, GU5 0LW in accordance with the terms of the application, Ref WA/2020/0663, dated 9 April 2020, 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 plan: 892/P01 (Rev A).
 - 3) No variation of the type and colour of the external materials to be used in the construction of the development as shown on the hereby approved plan shall be made.
 - 4) The building hereby permitted shall be used for the purposes of storage associated with agriculture and forestry in connection with Brooklands Farm and for no other purpose.

Application for costs

2. The appellants made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Erection of a replacement barn for storage use for agricultural purposes". I have used this description in my consideration of the

appeal and in my decision since it best describes the proposed development in precise and concise terms.

4. Planning permission was granted for alterations to an existing agricultural barn at the site (Ref WA/2019/1739). However, according to the appellants, for various reasons, including a need for additional foundation work, the existing barn had to be removed. The barn related to this appeal was then constructed, using the frame of the original barn. The Council advised that the works undertaken had gone beyond the alterations that had been granted planning permission.
5. The resulting planning application, now before me at appeal, was refused by the Council. The Council consider that as the previous barn no longer exists the proposal cannot be considered to be a 'replacement' building under paragraph 149 d) of the Framework, and that the barn related to this appeal is not required for an agricultural purpose with respect to paragraph 149 a) of the Framework. Additionally, the Council have raised concerns in relation to harm to ecology, including protected species.
6. At the site visit I observed the barn related to this appeal. Nevertheless, I cannot be certain that the development that has been carried out is exactly the same in its entirety as that which has been applied for. Thus, for the avoidance of doubt, this appeal decision only relates to the proposed development as shown on the submitted appeal plans.
7. The main parties have made extensive reference to a so-called 'mega barn', which is attached via a glazed link to the main dwelling known as Brooklands Farm, to the west of the appeal site. For ease of reference, I have adopted their terminology, notwithstanding that it is no longer in agricultural use.
8. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

9. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; and
 - the effect of the proposal on ecology, including protected species.

Reasons

Whether Inappropriate Development

10. One exception to the general position that the construction of new buildings in the Green Belt is inappropriate is where they are for agriculture or forestry (paragraph 149 a) of the Framework). Similarly, Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (adopted 2018) (Local Plan) provides that, amongst other things, new development is generally inappropriate in the Green Belt (and will not be permitted unless very special circumstances can be demonstrated). However, likewise in the development plan certain forms of development are considered to be not inappropriate in the Green Belt in line with national policy.

11. The appeal site is a fairly small parcel of land situated within the wider Brooklands Farm estate, which also includes a house and several large outbuildings. The surrounding area is predominantly rural.
12. Despite the declaration in Certificate A which relates to agricultural holdings, it is common ground between the main parties that the appeal site was last occupied by an agricultural building. The wider Brooklands Farm estate extends over approximately 13 hectares and includes large areas of open fields and woodland.
13. Whilst the evidence indicates that the land may not be suitable for certain crops, the appellants have referred to agricultural activities being undertaken at the farm, including the maintenance of agricultural grazing land, general land management, and an arboricultural tree nursery business. Photographs have also been provided demonstrating the range of agricultural equipment, including tractors, that are intended to be stored in the barn. In that context, and also within the terms in which the application has been made, there is nothing substantive to indicate that the proposal would not be used other than for agricultural purposes.
14. I note that other sizeable barns exist at the farm. However, considering the extant planning permission Ref WA/2020/1975 (which relates to the erection of a dwelling and associated works, together with the demolition of an existing barn), it is possible that the existing so-called 'mega barn' will be demolished, which will further emphasise the need for storage on site. Notwithstanding this, even if the 'mega barn' is not demolished, considering the large size of the wider site and the agricultural activities that I have referred to, there is evidently a continued rationale and justification for agricultural storage. Furthermore, a planning condition can be imposed to secure the use of the proposal as such.
15. I therefore find that, on account of the specific evidence provided pertaining to the agricultural uses being undertaken at the wider Brooklands Farm estate, and the intended use of the proposal for agricultural purposes, the proposal complies with paragraph 149 a) of the Framework. Accordingly, it is not necessary to consider any of the other exceptions referred to in the Framework. Any impact on openness is implicitly taken into account in the exceptions specified in paragraph 149 of the Framework, and I note that the scheme before me and the previously approved barn differ very little in overall scale and bulk as opposed to their method of construction.
16. Taking into account all of the above, the proposal would not constitute inappropriate development in the Green Belt for the purposes of the Framework and Policy RE2 of the Local Plan.

Ecology & Protected Species

17. For the purposes of ecology, I take the state of the site as being that which was granted via the previous planning permission. That effectively represents the authorised state of the site. It is not within my remit, even if there were sufficient information before me, to adjudge whether any protected species or habitats have previously been adversely affected here, nor whether any net loss of biodiversity has previously occurred.

18. I accept that the wider farm is adjacent to habitat for a range of protected species. I also acknowledge that the Ecology Report (produced by The Ecology Co-op in June 2021) draws from previous site surveys. The Council has had the opportunity of considering the Ecology Report at appeal. I understand the concern of nearby residents that such assessment work effectively follows, rather than precedes, construction of the barn now on site.
19. Nevertheless the Ecology Report sets out that previous site surveys have not revealed the presence of any protected species directly here. The site does not fall within an area specifically protected on account of its ecological value. The extent of the appeal site is, furthermore, very limited and covers a small footprint relative to the expansive Brooklands Farm estate (which offers a greater extent and range of habitat and flora and fauna).
20. Whilst I am statutorily required to conserve biodiversity, I note that protections to protected species exist elsewhere than planning. Moreover, notwithstanding the Council's position that the scheme before me is for a new barn as opposed to a replacement within the terms of Green Belt policy, nonetheless the barn would be cited in the location of a previous structure. I note that hardstanding already exists here, such that the scheme would not neutralise existing natural features.
21. In this specific context, and on the balance of the evidence before me, I therefore conclude that the proposal would be acceptable in terms of ecology (both in terms of Government Circular 06/2005 and in terms of paragraph 174 d) of the Framework). In that context the scheme would also comply with Policy NE1 of the Local Plan which seeks to, amongst other things, conserve and enhance biodiversity.

Other Matters

22. The Council's decision notice refers to the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended). Principally provisions under those regimes fall outside of planning, and for that reason, and also referring to my reasoning in paragraph 17, it is not within my remit to assess anything which has hitherto occurred (or would need consent under relevant provisions of those regimes). In planning terms, however, and as reasoned above, I am satisfied that the proposal would be acceptable in terms of ecology¹.
23. Several interested parties have made reference to alleged breaches of planning control, including with respect to alleged adverse impacts on habitats and species, increased flood risk, and the alleged removal of trees and hedges and the construction of a basement, but these are not matters that I can assess in the context of this appeal; such matters may fall to the Local Planning Authority to address as necessary.
24. Concerns have been raised about alleged differences between the appeal proposal and the previous barn on site (including with respect to the drawings under planning permission Ref WA/2019/1739). However, for the avoidance of doubt, I have assessed the bulk, height, overall size and scale, and internal configuration of the proposal on its own merits, notwithstanding what may have previously been present on site.

¹ Noting that there is no indication in any evidence that the proposal may entail effects to a site designated pursuant to European Directives.

25. Whilst queries have been raised as to the future use of the proposal, including its mezzanine storage area, I have assessed the proposal on the basis of its description, as an agricultural barn, and a condition can be imposed to ensure that it is used for storage purposes. Thus, none of these matters changes my findings on the main issues in this appeal.

Conditions

26. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plan. Conditions are also necessary restricting any variation in the type and colour of the external materials, and restricting the building to be used for storage purposes only, to safeguard the character of the area and to ensure that the development does not conflict with the purposes of the Green Belt.

Conclusion

27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR