



Appeal Decision

Site visit made on 20 December 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/M1005/W/21/3278054

Agricultural land adjacent to Meadow Gate House, Main Road, Lower Hartshay, Ripley DE5 3RP

- 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 Stuart Bailey against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/0101, dated 26 January 2021, was refused by notice dated 6 May 2021.
 - The development proposed was described as retention of an allotment with greenhouse, garden shed, raised beds and pathways on land adjacent to Meadow Gate House.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural land to allotment with greenhouse, garden shed, raised beds and pathways at Agricultural land adjacent to Meadow Gate House, Main Road, Lower Hartshay, Ripley DE5 3RP in accordance with the terms of the application Ref AVA/2021/0101, dated 26 January 2021, and the plans submitted with it, namely drawings 3155 Rev A (Site location plan), 3155-003 (plans and elevations as existing) and 3155-002 (Site plan as existing).

Preliminary Matters

2. The development for which planning permission is sought was described on the application form as "retention of an allotment with greenhouse, garden shed, raised beds and pathways on land adjacent to Meadow Gate House". The Council's decision notice and the appeal form described the development as "change of use of agricultural land to allotment with greenhouse, garden shed, raised beds and pathways". In the formal decision I have used this description as it is a more precise and accurate reflection of the development for which permission is sought.
3. The appellant confirms, on the application form, that the proposal was completed in 2018. I noted on my site visit that the development had been carried out. From the evidence before me, it is clear that the proposal is to retain the development that has already occurred, and I have dealt with it on that basis.

Main Issues

4. The main issues are:

- Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy, including an assessment of the effect on the openness of the Green Belt; and
- If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given lists of exceptions. This includes a) buildings for agriculture and forestry and b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
6. Policy EN2 of the Amber Valley Borough Local Plan (2006) (LP) states that within the Green Belt, planning permission will only be granted for appropriate development and sets out those developments. This policy is more restrictive than the approach set out in the Framework by virtue of limiting 'not inappropriate' development to more selective form of developments and does not specifically refer to allotments. Noting paragraph 219 of the Framework, I therefore accord the approach in specifically Framework paragraph 149 substantial weight in my assessment of the appeal.
7. The appellant has applied for planning permission for an allotment which is physically separated from Meadow Gate House's main garden area and the adjacent field. The allotment serves the appellant, and their family, to grow fruit and vegetables. The Framework does not specify that the allotment needs to be a certain size, scale or nature to comply with paragraph 149 b), for example that it needs to be part of a registered parcel of land.
8. The development includes raised-bed planters, a greenhouse, two sheds and pathways enclosed by a solid timber fence with gates. These are common facilities which are not unusual within an allotment in order to store items such as tools, equipment and soil as well as growing and protecting plants. Thus, in this case, they are appropriate facilities for the intended purpose.
9. Any exception under paragraph 149 b) only applies subject to the proviso that the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness is capable of having both spatial and visual aspects.
10. The scheme has altered the appearance of the appeal site which was previously an agricultural field with no buildings. Main Road contains other dwellings which vary in massing and scale. Meadow Gate House is a large, detached property with outbuildings within the garden. The allotment is set back from

Main Road, towards the south-east of Meadow Gate House and adjacent to a field.

11. The appeal site is well screened from the surrounding area due to its siting (set back from Main Road and towards the rear of Meadow Gate House) as well as the mature trees and vegetation. The facilities associated with the allotment are not conspicuous from the surrounding area because they are small scale, limited in height and occupy a limited proportion of the site. Furthermore, parts of the scheme can be erected without planning permission, for example the fence. The scheme is not out of keeping with the area and maintains its rural character.
12. Given the siting and scale of the allotment, and the associated facilities, as well as the context of the appeal site, the scheme preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
13. Agriculture is defined in section 336 of the Town and Country Planning Act 1990 (the Act) and includes horticulture, fruit growing and seed growing which are activities associated with an allotment. The appellant has drawn my attention to an appeal decision¹ in this regard. Even if the scheme did not comply with exception 149 a), it complies with 149 b) of the Framework.
14. For those reasons, whilst the proposal does not strictly accord with Policy EN2 of the LP, it accords with the Framework. In this case, the conflict with the LP is outweighed due to the scheme's accordance with the Framework given the restrictive approach taken in the LP. I therefore conclude that the proposal is not inappropriate development in the Green Belt.

Other considerations

15. Given that the development does not amount to inappropriate development in the Green Belt, there is no need for me to assess other considerations, and whether very special circumstances exist in order to justify the development. Similarly, there is no need to consider whether paragraph 11(d) of the Framework is engaged (as the Council consider); given my reasoning above there would neither be conflict with the relevant provisions of the development plan nor Framework. Such an exercise would therefore be academic.

Other matters

16. The Council state that the proposal fails to meet the environmental objective of sustainability. The allotment allows the appellant to harvest vegetables and fruit which reduces the amount of food they buy. This is an environmental benefit because it helps to reduce the number of food miles and carbon emissions associated with feeding the household.

Conditions

17. The Council has suggested one condition relating to the submitted drawings. As the scheme is retrospective, I have set out within my formal decision that the scheme shall be carried out in accordance with the plans submitted with it.

¹ APP/F1230/C/18/3208446

Conclusion

18. I conclude that whilst the proposal would not strictly accord with Policy EN2 of the LP, the proposal would not be inappropriate development and would not conflict with the Framework. I am therefore satisfied that the proposal constitutes sustainable development.
19. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and having regard to all other matters raised, I conclude that the appeal is allowed.

L M Wilson

INSPECTOR