
Appeal Decision

Site visit made on 29 March 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2022

Appeal Ref: APP/M1005/W/21/3285367

Mill Farm, 18 Wood Lane, Horsley Woodhouse, Ilkeston DE7 6BN

- 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 Tom and Nick Henshaw and Ghislanzoni against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/0118, dated 1 February 2021, was refused by notice dated 1 September 2021.
 - The development proposed is conversion of former Dutch barn to form garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council is concerned that due to the amount of work required to convert the former barn, this would be tantamount to a new building. Paragraph 149 of the National Planning Policy Framework (the Framework) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. However, section 336 of the Town and Country Planning Act 1990 states a 'building' includes any structure or erection, and any part of a building, as so defined. As such I see no reason why, as a starting point, the barn cannot be considered a building.
3. Reference is made to an earlier grant of planning permission¹ adjacent which required the barn subject to this appeal be removed from the site. However, while I understand this may have been with the purpose of offsetting harm to the Green Belt in other respects, I have little information on this matter before me. The retention of a building is not development in and of itself, and in this appeal, I have only assessed the proposal on its own merits as it is presented to me.

Main Issues

4. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; and

¹ AVA/2019/1245

- If the proposal is inappropriate development, 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 it.

Reasons

Whether Inappropriate Development

5. The appeal site comprises a redundant agricultural building of 'Dutch Barn' design. The structure is currently open sided and consists of the steel frame and roof which is clad in metal sheeting. From the site history, I understand that two other former farm buildings adjacent have been granted both planning permission and prior approval² to be converted into dwellings. The proposal seeks to convert the redundant barn into a residential garage to serve those buildings which are being converted into dwellings.
6. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of several exceptions. It is asserted that the proposal would meet either paragraph 149(c), where development involves an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, or paragraph 149(d); the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. However, the proposal clearly states that the garage would serve the converted dwellings adjacent and would therefore involve a change of use of the building from agricultural to residential. As such, this change of use of the building from a barn into a dwelling would not fall under either exception 149 (c) or (d).
8. Paragraph 150 of the Framework details certain other forms of development which are not inappropriate in the Green Belt. The appellants consider the proposal would fall under paragraph 150(d). This involves the re-use of buildings, provided that the buildings are of permanent and substantial construction. The exceptions under paragraph 150 are subject to additional requirements, whereby development is not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
9. The barn is open on all sides and consists of a steel frame formed of 6 stanchions and the roof. The planning application was supplemented by a structural report on the condition of the barn (Bayliss Consulting 24 March 2021) which advises the building is stable and in relatively good condition.
10. However, the report makes clear that the internal inspection was carried out at ground level and parts of the building which were covered, unexposed or inaccessible at the time of the survey cannot be guaranteed to be free from defect. Similar limitations are identified with regards to the foundations. Moreover, it is advised that additional support is provided to the steel columns, timber eaves beam and curved lattice truss. The open sides would all require cladding while that existing to the roof would need replacing. Furthermore, the

² AVA/2020/0040

plans indicate a first-floor storage area is to be included, which would also require reinforcing.

11. Substantial construction is not defined in the Framework and is inevitably a matter of planning judgement. Although the survey concludes that the building is in relatively good condition, it is clear that a significant proportion of the barn is in need of repair, stabilising and, in large parts, re-covered. This would align with my own observations on the site visit.
12. Based on the above, this leads me to conclude that the building is not of substantial construction and that proposal would not meet the exception outlined in paragraph 150(d) of the Framework. The proposal would therefore constitute inappropriate development in the Green Belt.
13. In accordance with paragraph 147 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

14. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The assessment of openness includes consideration of both visual and spatial aspects. The proposal would expand the domestic curtilage of the wider site and increase sections of hardstanding proposed for the approved dwellings adjacent. This would reduce openness spatially.
15. Visually, I disagree that the barn is not prominent. I observed it was clearly visible from Wood Lane and is an open sided structure at present. Its permeability allows views out towards open countryside behind the structure when viewed from Wood Lane. The required cladding would enclose the building, appearing as a solid structure which would provide no permeability or visibility through it. Although spatially and visually I agree that the harm to openness would be limited in the context of the whole Green Belt, the Framework is clear in paragraph 148 that substantial weight is given to any harm to the Green Belt.

Other Considerations

16. The Framework states in paragraph 148 that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
17. Although no other considerations have been presented to me in support of very special circumstances, I appreciate that the increased storage and garage space would be of benefit to the occupiers of the property. However, this would be private to the appellants and of little weight in favour of the proposal.

Green Belt Balance and Conclusion

18. The Framework requires in paragraph 148 that substantial weight is given to any harm to the Green Belt. I have found harm by reason of the proposed development's inappropriateness and harm to openness. The Framework states that very special circumstances will not exist unless harm to the Green Belt by

reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

19. For the reasons given, I attribute little weight to the private benefits of the proposal to the appellant. A lack of objection to the proposal on matters relating to ecology, highway safety, living conditions of occupiers of adjacent dwellings or land contamination are neutral in the planning balance rather than of benefit. Although reference is made to the Council agreeing that the barn is capable of conversion, the application is for planning permission rather than under the 'Class Q' prior approval procedure and this has not formed part of my assessment.
20. Consequently, I conclude that the other considerations put forward would not, in their totality, clearly outweigh the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development therefore do not exist and the development would conflict with the Green Belt protection aims of the Framework.
21. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR