



Appeal Decision

Site visit made on 13 May 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2022

Appeal Ref: APP/J1535/W/21/3280116

7 Sergeants Green Lane, Waltham Abbey EN9 3SH

- 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 & Dr J & P Allen against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1062/21, dated 13 April 2021, was refused by notice dated 22 June 2021.
 - The development proposed is erection of a haybarn.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site lies within the Metropolitan Green Belt. Therefore, the main issues are:
 - Whether the proposal amounts to inappropriate development in the Green Belt, including the effect on the openness of the Green Belt and the purposes of including land within it;
 - If the development is inappropriate, whether any 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

3. Paragraph 149 of the National Planning Policy Framework (July 2021) (the Framework) states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate. These include 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.
4. Saved Policy GB2A of the Epping Forest District Local Plan (January 1998, Alterations July 2006) (the DLP) relates to development in the Green Belt, but is not consistent with the Framework as it uses different language in setting out different forms of 'appropriate' development in the Green Belt, although it is closer the Framework in terms of the exceptions set out above. Even so, the identified differences mean I afford the policy limited weight overall.

5. The Council also refers to Draft Policy DM4 of the Epping Forest District Local Plan (Submission Version 2017) (the SDLP). The Council indicates that the plan is at an advanced stage of preparation, though I note hearings were held in June 2019 and the reasons for the plan not yet being adopted are not explained. However, the examining Inspector indicated to the Council that Policy DM4 was not recommended for modification, and therefore is unlikely to be adopted in a substantially different form. As this policy is consistent with the wording of the Framework, I afford it moderate weight as a material consideration. However, I have considered the appeal primarily against the Framework itself.
6. The appellant sets out that the barn would be for a mix of agricultural and equestrian use. It is indicated that a hay crop would be grown on the appellant's holding of some 2.95 hectares, harvested and stored in the proposed barn. This would be used to feed up to four horses kept on the land. The barn would also be used for equestrian purposes, including the storage of bulky supplies, bedding and other equipment.
7. The appellant states that the proposal should be assessed under exception a) of Paragraph 149 as the proposal would be 'primarily' in agricultural use, based on a proposed 65.5%/34.5% split of the floorspace. The appellant nevertheless argues that the proposal would also accord with exception b) as this includes equestrian use, but stresses that the requirement for the proposal to preserve the openness of the Green Belt *'is not strictly relevant in this instance'* as the primary use would be agricultural and exception a) does not include the same test in respect of openness.
8. The Council argues that the land is not in agricultural use, but should be regarded as outdoor recreation by virtue of a 2014 permission¹ for an all-weather turnout/horse exercising surface which exists close to the proposed location of the barn. The appellant counters that this permission did not alter the use of the surrounding land, which still falls within agricultural use. It is not within the scope of this appeal to determine the lawful use of the land. However, with respect to exception a) of Paragraph 149, the relevant consideration is the use to which the proposed building will be put, with no further qualifying criteria and no reference to the existing use of the land. In this respect, I accept that the production of hay falls within the definition of agriculture under s336 of the Act.
9. However, the appellant makes it clear that the building is not solely for agricultural use, but would be a mix of both agricultural and equestrian uses. Exception a) of Paragraph 149 applies to buildings 'for agriculture', not 'primarily for agriculture', as argued by the appellant. I read the exception as meaning buildings solely for agricultural use, not for a mix of uses. On this basis, the proposal would not meet exception a). For the same reasons, the proposed barn would not be a building solely for outdoor sport and recreation purposes, and so it would not fall wholly within exception b) either.
10. However, even if this interpretation is wrong, there is nothing in the aforementioned policies or the Framework which supports the appellant's view that a proposal within the Green Belt is only to be considered on the basis of its purported 'primary' use. At 34.5% of the floorspace, the equestrian use would not be an inconsequential part of the proposal, but would contribute to a mixed

¹ Council Ref EPF/2231/14

use that would merit consideration under each potentially relevant exception to inappropriate development. Therefore, the alternative approach is to consider the proposal against both exceptions a) and b) of Paragraph 149.

11. Taking this approach, the agricultural use of the proposal would accord with exception a) of Paragraph 149; however, the equestrian use falling under exception b) is subject to the proposal preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. Whilst I note the appellant's reference to various case law, I am not persuaded by the evidence before me that this assessment should be set aside.
12. Openness and permanence are the essential characteristics of Green Belts. Openness in terms of the Green Belt has both a spatial and visual aspect. The barn would be located within an open field. The manège stands to the west of the proposed location of the barn but the field is otherwise undeveloped and laid to grass. The construction of the barn would result in built development where there is presently none. At 18 metres wide, 6 metres deep and nearly 5.3 metres high, the barn would be a substantial structure. Its massing, along with any other features such as access tracks, fencing or hardstanding areas, would lead to an inevitable and demonstrable loss of openness in spatial terms.
13. The barn would be clearly visible from dwellings to the south on Woodgreen Road, and those to the west, which despite being several hundred metres away, have clear views of the appeal site across the open landscape. I was also referred to the public footpath which runs to the east of the site, though I was unable to view from it at my visit. However, whilst I saw there to be significant screening from trees and hedgerows between the appeal site and footpath, it is possible that the barn would be seen in winter when these are not in leaf. This aside, the clear visibility of the proposal from neighbouring dwellings means there would be a demonstrable loss of openness in visual terms.
14. Moreover, as the proposal is for a single building, I do not consider that any assessment of openness should be based only on the proportion of the building proposed for equestrian use. However, even if I were to take such an approach, my findings in respect of openness would not differ as this would still result in demonstrable built form on the site where there is none at present.
15. For these reasons, I conclude that the proposal would not preserve the openness of the Green Belt and would result in the encroachment of development into the countryside, contrary to one of the purposes of the Green Belt. Therefore, whilst I have considered alternative approaches to the assessment of this mixed use proposal within the Green Belt, it would conflict with Paragraph 149(b) of the Framework in each scenario. Consequently, the proposal would constitute inappropriate development within the Green Belt. There would be conflict with Saved Policy GB2A of the DLP and draft Policy DM4 of the SDLP insofar as the proposal would not represent a supported form of development in the Green Belt, but for the reasons set out above, I afford these conflicts limited and moderate weight respectively.

Other Considerations

16. I note the appellant's reference to a barn granted planning permission in 2012² adjacent to West View Cottage around 1.5 miles away. I do not have full details

² EPF/2506/11

of the Council's reasoning in granting this proposal, and so cannot be certain that it represents a wholly comparable situation to the appeal scheme before me. This aside, the fact that a similar building has been approved elsewhere in the Green Belt does not negate or dilute my findings that the proposal, on its own merits, would amount to inappropriate development in the Green Belt. Therefore, as a material consideration I afford this other planning permission very limited weight.

17. No objection was raised by the Council in respect of the specific design of the barn, its effect on neighbours' living conditions, nor in respect of highway safety, and I have no compelling reasons to reach different views in these matters, having regard to its form and materials, the proximity of nearby dwellings and the surrounding road layout. Although I have not identified harm in these respects, these would be neutral considerations weighing neither for nor against the proposal.
18. The appellant sets out that the barn is required to enable hay production to take place on the land, which would have the benefit of reducing weekly hay deliveries to the site. There would also be some economic activity generated from the construction of the barn itself. I recognise that this may be advantageous to the appellant, but this would be of modest scale in terms of wider public benefits. There is also little evidence to indicate that existing hay deliveries cause significant problems either for the appellant or neighbouring residents that would be demonstrably improved by the proposal. Therefore, I attribute limited weight to the anticipated benefits in this regard.
19. I note concerns from interested parties that the proposal would be linked to the creation of a commercial equestrian business on the site. However, the evidence before me in this respect is not conclusive, and this is not a consideration which weighs against the proposal.
20. I have had regard to an earlier appeal decision³ relating to the same land. However, the proposal in that case was for a dwelling, and so was subject to different considerations in terms of Green Belt and other policies. As such, it is not directly comparable to the appeal before me, which I have considered on its own planning merits.

Planning Balance

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there are adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
22. As explained above I give only limited weight to the material considerations in support of the proposal and conclude that, taken together, they do not clearly outweigh the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.

³ Appeal Ref APP/J1535/W/20/3250400

23. Saved Policy GB2A is a policy most important for determining the application but, for the reasons stated above, it is out-of-date. In this case, Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted unless application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Green Belt is one such area or asset and, given my findings above, the proposal would not amount to sustainable development and the presumption in favour does not therefore apply.
24. The proposal would result in conflict with the development plan, taken as a whole. Other material considerations, in particular the Framework, do not indicate that permission should be forthcoming in spite of this conflict.

Conclusion

25. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR