



Appeal Decisions

Site visit made on 14 June 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H2265/W/22/3290956

Westlands Farm, Borough Green Road, Wrotham, Sevenoaks TN15 7RB

- 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 Adam Massingham against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/02930/FL, dated 28 October 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the demolition of existing buildings and erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal is accompanied by APP/H2265/W/22/3290954. Both relate to the replacement of agricultural buildings with a single dwelling. Whilst there are similar issues with each, there are also distinct ones and for the sake of clarity, I have dealt with them separately.
3. The Council's appeal statement correctly references both appeals but it relates to a single appeal which does not match the description of development or the circumstances of the case. The appellant has referred to this apparent error in their final comments. As the Council's appeal statement provides no evidence to support the case in relation to either appeals, I have relied on the delegated report. I am satisfied that this contains sufficient information on the Council's position. The appellant has made comment on it.

Main Issues

4. The main issues are:
 - Whether the appeal scheme would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt, and;
 - If the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Background

5. Both appeals relate to an area of land in the Green Belt, currently occupied by a yard of agricultural buildings. They are associated with a farmhouse to the north which is outside both appeal sites. The sites are accessed via a long track from Borough Green Road, and stand in an isolated, predominantly open location with a strong rural character. The farm buildings which are the subject of the two appeals lie to the eastern side of the access track with no significant boundaries separating them from the surrounding field.
6. This appeal relates to the agricultural buildings within the farmstead group as a whole, excluding the agricultural buildings forming part of the accompanying appeal (an L-shaped range on the northern side of this building group). It is proposed to demolish this collection of single storey structures of mixed appearance and materials and replace them with a new dwelling in the southerly part of the farmstead.
7. The accompanying appeal relates to agricultural buildings which received planning permission for conversion in 2020 (Ref.TM/20/02378/FL). It should be noted that as part of this scheme, which has not yet been implemented, the site area included this appeal site and the approve plans show the demolition of all buildings to form the domestic curtilage.

Whether Inappropriate Development

8. Policy CP3 of the 2007 Tonbridge and Malling Core Strategy (CS) states that National Green Belt Policy will be applied to development in this part of the Borough. This is currently set out in the Framework. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Paragraph 149 of the Framework regards the construction of new buildings as inappropriate development, subject to a number of exceptions.
9. With regard to such and the arguments of the case before me, the appeal relates to buildings which were last in agricultural use. Annex 2: Glossary of the Framework defines Previously Developed Land and states that land that is or was last occupied by agricultural buildings is specifically excluded from this definition.
10. I have examined the claim that the appeal buildings have been abandoned and therefore should be classed as Previously Developed Land which potentially would be an exception under Paragraph 149 g) of the Framework. The appellant has referred to comments made in a planning statement relating to the extant scheme for residential conversion. However, I have not been provided with this document. In any event, I note that the extract included in this appeal statement is a very general comment by the applicant about the use of the land and buildings at the time. It was not attempting to demonstrate abandonment, to the contrary it showed that the land surrounding the farmstead was still being farmed

and in my view at a future point in time the buildings could be removed, replaced or altered to meet the needs of the land or farming business.

11. The appeal decision (Ref:APP/D3505/W/17/3187371) discussed the subject of abandonment in some depth. Considerable evidence was put forward by the appellant to examine the period of non-use, physical condition of the building, evidence of intervening uses and the owner's intentions. With the appeal before me, there is no adequate supporting evidence to examine the tests of abandonment or to demonstrate that similar circumstances apply to this site.
12. The previous owner's intentions were demonstrated in receiving planning permission for the residential conversion affecting both appeal sites before me. This application was initially made under Class Q of the Town and Country Planning (General Permitted Development Order) 2015 and a case for abandonment did not need to be made. Furthermore, the plans for the extant permission indicate the demolition of the buildings, which are the subject of this appeal, to provide a residential curtilage for this dwelling. The intention of the owner at the time was therefore that these appeal buildings and land would form part of the approved conversion. The current owner bought this site in the knowledge that the site was last used as farm buildings, that the land was still being farmed, and that a permission existed to convert the main farm buildings to a dwelling with the land and buildings subject to this appeal forming part of its curtilage.
13. The second appeal referred to (Ref:APP/C1625/W/19/3227949) relates to a dwelling where the remaining structure was so minimal and dilapidated that it was regarded to have blended into the landscape. There is no doubt that the existing structures relating to this appeal are dilapidated, but agricultural structures are often very makeshift, and many are capable of adaptation or replacement. I do not, therefore see any similar circumstances with the appeal case before me.
14. With this and the above in mind, the appeal scheme would not fall into any of the other exceptions set out in paragraph 145 or 150 of the Framework. It would therefore be inappropriate development in the Green Belt having regard to CS Policy CP3 and the Framework.

Openness

15. Openness is an essential characteristic of the Green Belt and has a spatial as well as a visual aspect. The appeal scheme would result in the demolition of an assortment of mainly dispersed single storey agricultural buildings across the site. Whilst spatially the collective floor area and volume of these buildings to be demolished would be greater than the proposed replacement dwelling, they would be replaced with a single structure of significant volume. The replacement dwelling would be a bulky T-shaped plan which although no higher than the highest existing building on the site, would have a consistently high ridge and dormer windows and in my view the spatial impact of the proposal would have a much greater impact on openness.
16. This single, larger, bulky structure would also have a greater visual effect on the openness of the Green Belt. The existing buildings are of mixed sizes, with many structures so low that they couldn't be stood up in. They

are spread out across the wider site which disperses and dilutes the current effect they have on openness.

17. The proposed large dwelling would also be associated with the trappings of domestic life including car parking and the garden area, which may accommodate garden structures, level changes, boundary treatments and other paraphernalia, all of which would add up to affect openness. The proposed single dwelling with its curtilage would, for these reasons, represent a significant loss of openness of the Green Belt, compounded by the open landscape setting of the site.
18. I must also consider the extant scheme of conversion which if implemented would result in the land and buildings of this appeal site being included in its curtilage, and in all probability the farm buildings would be demolished. It is likely, therefore, that if this extant scheme is implemented, whilst the domestic curtilage would no doubt have an effect on openness, it would be would far less than the effect on openness of the existing buildings or the effect on openness arising from the appeal proposal before me.
19. The proposed development would therefore cause significant harm to the openness of the Green Belt. Substantial weight is afforded to this harm in accordance with paragraph 148 of the Framework and CS Policy CP3.

Other Considerations

20. National policy is unashamedly clear that the replacement of agricultural buildings with residential dwellings would be inappropriate development in the Green Belt, which would be harmful by definition and must be afforded substantial weight. Very special circumstances will not exist unless the harm resulting from inappropriate development and loss of openness is clearly outweighed by other considerations.
21. The fact that the Council found no other harm beyond finding inappropriate development and a loss of openness cannot be regarded as a benefit, rather it is a neutral factor not weighing for or against the proposal.
22. Whilst there would be a substantial reduction in built form across the site, I have still found harm to openness and as such the development would not meet any of the five purposes of the Green Belt.
23. The appeal scheme would initially remove rundown and dilapidated agricultural buildings spread across the site. However, the plans relating to the extant permission for the conversion of the adjoining building indicate the demolition of these appeal buildings to incorporate the land into its curtilage. There is already, therefore, an extant beneficial use for this site which would address the run-down nature of the buildings. There also may be other options for the repair and re-use of these buildings which would not amount to inappropriate development. I therefore can only afford limited weight to the removal of these buildings and the areas visual improvement.
24. To conclude, the harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Conclusion

25. The appellant has raised the matter of the Council's lack of a five-year supply of housing land and that policies most important for determining the application are out-of-date. However, as the appeal scheme is regarded as inappropriate development and would have a significant effect on the openness of the Green Belt it would conflict with Green Belt policy. The Framework provides a clear reason for refusing the development proposed in this regard, as per paragraph 11 d) i), and it is therefore not necessary to undertake further analysis.
26. In summary, the appeal proposal would be inappropriate development in the terms set out by CS Policy CP3 and the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm.
27. For the reasons set out above, and considering all other matters raised, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal should therefore be dismissed.

G Bayliss

INSPECTOR