

Appeal Decision

Hearing Held on 12 July 2022

Site visit made on 12 July 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Appeal Ref: APP/M1005/W/21/3284038

**Land off Cromford Road, Cromford Road, Langley Mill, Nottingham
NG16 4HD**

- 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 Denley Allen against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/1128, dated 24 November 2020, was refused by notice dated 31 March 2021.
 - The development proposed is erection of agricultural dwelling and cattle housing.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Denley Allen against Amber Valley Borough Council. This application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. The evidence details that the appeal site benefits from outline planning permission for an Agricultural Dwelling, Cattle Housing and Access Tracks. This permission relates to a previous application – LPA Ref AVA/2019/280. Although this was refused by the Council, the appeal that followed was allowed. This is referenced APP/M1005/W/21/3266211. The appeal decision is dated 19 July 2021 and is therefore extant.
4. Prior to that appeal being determined, the appellant submitted a separate full planning application, which was subsequently refused by the Council and which is now the subject of this appeal. I was advised at the hearing that the current course of action was chosen as the appellant was becoming frustrated at a lack of progress on the development and that they considered that submitting a further application would keep things moving.
5. I was provided with a copy of a reserved matters approval relating to the cattle housing which was the subject of the earlier outline application. The parties confirmed at the hearing that there is no disagreement with regard to the provision of a cattle shed on the site.

6. It was clarified at the hearing that despite its inclusion under the applicant details of the application form, C B Land Consultancy is not the company of Mr Denley Allen. These details relate to the agent.
7. A Topographic Survey of the site was submitted alongside the appeal. Further information on levels was a matter that the LPA were happy to pursue via condition and therefore I do not consider it unreasonable to consider the Topographic Survey as part of this appeal.
8. At the time of my site visit, brick walls and piers at the entrance to the site had been partly constructed. What had been constructed appeared to broadly accord with the submitted plans. For the sake of clarity, my consideration is made on the basis of the plans.
9. The Framework at paragraph 80 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless, amongst other circumstances, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Such requirements have the potential to form very special circumstances with regard to Green Belts.
10. I consider that the location of the dwelling should be considered as such in the context of the Framework. Whilst the dwelling does sit a short distance to the east of an existing cluster of dwellings, it is clearly physically remote from the nearest settlements and within the countryside.

Main Issues

11. The main issues are:

- i. whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies & the effect of the proposal on the openness of the Green Belt;
- ii. the effect of the proposal on the character and appearance of the area; and
- iii. 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 the development.

Reasons

12. The appeal site is strung out along the south-west side of the busy A610 in the Green Belt and within countryside to the north west of Langley Mill. The dwelling would be located at the western end of the site, the cattle shed the east, the entrance wall and gates in between with a track providing links along the site. The A610 at this location broadly runs along a ridge in the landscape with occasional extensive views available through the falling land levels to the south-west and north-east.

Planning policy context

13. I consider that the most important policies are EN2, LS3 and H12 of the Amber Valley Borough Local Plan (2006) (AVLP) which forms the development plan for the area. All of these policies were quoted within the reason for refusal.

14. Policy EN2 relates to the Green Belt. Whilst it relates to their protection, it is inconsistent with the advice of the Framework with regard to Green Belts, particularly with regard to the matter of very special circumstances. The policy is therefore out of date. On this matter I have subsequently defaulted to advice in part 13 of the Framework (Protecting Green Belt Land), which was identified at the hearing as being of importance.
15. Policies LS3 and H12 require that proposals are of good design and appropriate to the location within which the development is proposed. These principles are entirely consistent with the Framework which at paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The principles of the policies are therefore consistent with the Framework and these policies are not therefore out of date.

Green Belt – whether inappropriate development and openness

16. The Framework at paragraph 149 establishes that the construction of new buildings within the Green Belt should be regarded as inappropriate. Agricultural dwellings are not identified as an exception and this part of the proposal would therefore form inappropriate development within the Green Belt.
17. Given that the term 'building' can include any structure or erection, I am satisfied that in relation to this appeal, the entrance gates, brick piers and walls can be considered a building under the terms of this part of the Framework. The entrance gates, brick piers and walls are also not a type of building within the exceptions. They therefore constitute inappropriate development within the Green Belt.
18. At paragraph 150 the Framework advises that engineering operations are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. The access track could be considered an engineering operation. The evidence indicates that it would be provided level with the ground with no tangible regrading or raising of land required. Subsequently, this aspect of the proposal would have no impact on openness and would not as a result form inappropriate development.
19. A 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. The assessment of openness requires a consideration of both spatial and visual aspects.
20. The proposed dwelling is large and bulky and the existing site where the house would be placed is lacking in built development. The house would be set back from the A610 and would be screened to some extent from views from the road by hedging and trees on the boundary of the site.
21. However, the screening would not be total and the house would likely be visible from some points on the road. It would be more visible during the wintertime when the partial screening offered by the hedges and trees would be likely to thin substantially. Further, the dwelling would also be visible at certain viewpoints from the right of way (ROW) which runs from the south and which would pass the dwelling and join the A610 a short distance to its east.

22. The partially erected brick walls and piers form a substantial feature in this location, forming a solid boundary with the A610 which restrict open views to the south west. They have a significant impact on the openness of the Green Belt. These views would be further restricted were this feature to be completed in line with the plans.
23. Consequently, there would be a harmful loss of openness of the green belt in both spatial and visual terms relating to both of these aspects of the proposal.

Character and appearance of area

24. I appreciate that there is other residential development of more modern form further to the north west along the A610. However, the main built development within the immediate vicinity of the appeal site is formed of a very modest terrace of traditionally proportioned dwellings and two further modest semi-detached dwellings. Despite sitting adjacent to and fronting the A610, they appear as long-established buildings which sit comfortably within their countryside location.
25. The dwelling that is proposed would be significantly larger in both size and massing when compared with those nearby dwellings and due to this divergence with the nearby built form, its size and massing would form a notable and imposing feature when viewed from both the A610 and the ROW.
26. The rear elevation of the dwelling would face towards the road, which again, would be an uncomfortable contrast with the established form of development that instead fronts the road. It would incorporate a first-floor full length balcony to its south west elevation along with a large and dominating gable feature which could be glazed to second floor level. The remainder of this elevation would be largely glazed, which again would offer sharp contrast to the established built form which exhibits a prevalence of solid walls over glazing.
27. The rear elevation would have a rather confused appearance, including a proliferation of variously sized horizontal openings along with three dormer windows which would incorporate window openings with a more vertical emphasis.
28. It was confirmed at the hearing that the design of the dwelling has been influenced heavily by practical requirements. It was also stated that this design had been accepted elsewhere in the borough. However, the evidence indicates that those sites are not in locations with the same level of public visibility as this proposal and I therefore afford this matter limited weight.
29. The entrance gates, brick piers and walls by reason of their design, extent, height, and partially solid form leads to them forming an overly domestic highly discordant intrusion into the countryside setting, even when accounting for the existence of the wide driveway to the site across the grass verge from the road.
30. To conclude on this issue, the dwelling, by reason of its size, mass and design would have a significant adverse impact on the character and appearance of the area. The entrance gates, brick piers and walls also have a significant adverse impact on the character and appearance of the area. The proposal would therefore conflict with policies LS3 and H12 of the AVLP which require amongst other things that proposals respect the character of the locality in

terms of scale, massing and architectural style and in particular housing development that is in scale and character with its surroundings.

Other considerations

31. Government guidance¹ on rural housing offers advice when applying paragraph 80(a) of the Framework. Amongst other things, it suggests such considerations include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of a land-based rural enterprise and the degree to which there is confidence over the future viability of the enterprise.
32. It is stated that a dwelling would be required at the site to support the expansion of a suckler herd, with the appeal site being used as a breeding and calf rearing unit. It is stated that the current herd of 312 head of suckler cows would be split between the appellants main holding and the appeal site. Upon the partial relocation of the herd to appeal site, there is no dispute between the parties that it would be necessary for a rural worker to live at the site so as to ensure proper supervision of the herd.
33. As has previously been outlined the dwelling is large and there is disagreement between the parties as to the size of the dwelling that is required. Some justification was provided at the Hearing for the size of the dwelling, in terms of the need to store agricultural equipment/medicines without the need for additional buildings. The dwelling would be occupied by the appellants son who would be both a stockman and farm manager.
34. Notwithstanding this, very limited financial information has been submitted in support of the business. The Council is therefore concerned over the future viability of the enterprise and its ability to finance and sustain a dwelling of such size, which would be restricted by condition for occupation by an agricultural worker. Such matters have not been comprehensively addressed either within the submitted evidence, nor at the Hearing.
35. However, the appellant has drawn my attention to the appeal decision APP/M1005/W/21/3266211 in support of their case which grants outline approval for an Agricultural Dwelling, Cattle Housing and Access Tracks.
36. Whilst the reserved matters would still have to be agreed with the Council, I note that the previous inspector was willing to accept an inevitable and demonstrable loss of openness to the green belt in spatial and visual terms in allowing the appeal. I afford this matter significant weight.
37. I was advised that the entrance arrangement including gates, walls and piers was required due to security concerns. However, the case for such a robust and domestic style entrance with regard to security has not been advanced in any proper detail and there may be other arrangements of lesser impact that could be utilised. I therefore afford limited weight to this matter.
38. The appellant stated that he has previously had planning approval for a similar dwelling at Hogg Barn Lane. I was able to view the location during the site visit which followed the hearing. However, it is understood that this approval is no longer extant and I therefore afford very limited weight to this matter. In any event the characteristics of that location differ significantly.

¹ Housing needs of different groups – rural housing Paragraph: 010 Reference ID: 67-010-20190722.

Green Belt Balance and Conclusion

39. I have identified the most important policies for determining this application. Of these, the proposed development would conflict with policies LS3 and H12 of the AVLP. Significant weight can be afforded to the conflict with these policies. The appeal scheme would conflict with the development plan when taken as a whole.
40. I have found that the agricultural dwelling, entrance gates, brick piers and walls would form and are inappropriate development within the Green Belt and would be harmful to Green Belt openness. They should not be approved except in very special circumstances.
41. I must attach substantial weight to the harm to the Green Belt. The harm arising by reason of the agricultural dwelling is outweighed as a result of the previous outline approval under which the inspector was willing to accept a demonstrable loss of openness. This weighs in favour of the proposal.
42. However, further green belt harm through a significant impact on openness arises from the entrance gates, brick piers and walls which did not form part of the previous outline scheme. These elements of the scheme also have a significant adverse impact on the character and appearance of the area. Further, the dwelling, by reason of its size, mass and design would also have a significant adverse impact on the character and appearance of the area. I afford these matters when considered together, substantial weight.
43. As such, the harm I have identified arising from the scheme as a whole is not clearly outweighed by the other considerations. Consequently, the very special circumstances necessary to justify the development do not exist and the appeal should therefore be dismissed.

T J Burnham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Denley Allen (Appellant)

Charles Baker

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Pearce

Shemuel Sheikh

Chris Harvey

DOCUMENTS PROVIDED AT HEARING:

Reserved Matter Approval Ref AVA/2022/0047

Photograph of public spaces protection notice