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## Appeal Decision

Site visit made on 3 May 2022 by Darren Ellis MPlan

**Decision by L McKay MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 5 September 2022**

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**Appeal Ref: APP/W3005/W/21/3281504**

**Land on the northern side of Blidworth Road (Forest Farm), Kirkby in Ashfield NG17 7QN**

**Easting: 452514; Northing: 355788**

- 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 Ms Susan Weaver against the decision of Ashfield District Council.
  - The application Ref V/2021/0454, dated 8 June 2021, was refused by notice dated 27 July 2021.
  - The development proposed is a storage barn (for agricultural purposes only).
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### Decision

1. The appeal is allowed and planning permission is granted for a storage barn (for agricultural purposes only) at Land on the northern side of Blidworth Road (Forest Farm), Kirkby in Ashfield in accordance with the terms of the application V/2021/0454, dated 8 June 2021, subject to these conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, including the materials specified thereon: Proposed Site Location Plan dated March 22 2021 ID: JEW-00948241; Block Plan dated March 22 2021, ID: JEW-00948245; Plans and Elevations – as Proposed drawing no. FF.KIA/2021/PE2.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework); the effect of the proposal on the openness of the Green Belt and on the character and appearance of the area.
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## **Reasons for the Recommendation**

### *Whether inappropriate development*

4. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain exceptions set out in paragraphs 149 and 150, including where they involve new buildings for agriculture.
5. Policy EV1 of the Ashfield Local Plan Review (November 2002) (ALPR) is generally consistent with the Framework in that it seeks to protect the Green Belt from inappropriate development but allows certain exceptions, including the construction of new buildings for the purposes of agriculture. The policy also requires that all development must be located and designed so as not to adversely affect the purposes of the Green Belt and its openness.
6. The supporting text to ALPR Policy EV1 states that where new agricultural buildings require planning permission, they should be restricted to cases where they are essential and the need for the proposed location has been established. This does not however form part of the policy wording in relation to agricultural buildings. Nor is there any test of an 'essential requirement' for an agricultural building in the Green Belt in the Framework, which is the more recent policy. The building simply needs to be used for an agricultural purpose to fall within the relevant exceptions. Nevertheless, the Council and interested parties have raised doubts on this matter, as well as about whether the proposed building would be used for the purposes stated.
7. The Council asserts that existing structures on site and the use of the land are unauthorised, however there is no evidence before me of any enforcement action taken by the Council. The appellant states that the structures, adjacent to the location of the proposed building, are used to shelter her horses. A previous planning application to change the use of the land from agricultural to equine and the erection of a stable block was refused and subsequently dismissed at appeal<sup>1</sup>. I note the previous Inspector's comment that there was evidence of agricultural use of the land in the period 2004 to 2016. Consequently, even if the appeal site were in an equestrian use, which is far from certain, it has not been demonstrated that the use is now lawful.
8. At the time of my visit the land where the building is proposed was part of one of several paddocks fenced off from the other structures. Even if the other structures are used for equestrian purposes, it has not been demonstrated that the site of the proposed building is used for anything other than agriculture, which can include grazing. In any case, the proposal is for a building for agricultural purposes and not for any equestrian purpose. Use of land for agriculture is not development in planning terms. Consequently, while I recognise the Council and other parties' concerns, no compelling evidence has been submitted that would lead me to doubt that the building would be used in the manner proposed by the appellant. I have therefore determined the appeal on the basis of the proposal as submitted.
9. The application form and appellant's supporting statement state that the building would be used for the storage of agricultural machinery, equipment and crops of hay. This would clearly fall within an agricultural storage use. The

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<sup>1</sup> Planning application ref. V/2016/0410; Appeal ref. APP/W3005/W/3158945

plans are denoted similarly and the proposed design is typical of a modern farm building.

10. From the information before me therefore, I am satisfied that the proposal would be a building for agriculture. It follows that it would fall within the exception listed at paragraph 149(a) of the Framework and criterion b) i) of Policy EV1.
11. While a relatively small parcel, the land will need maintenance and animals grazing on it will need feeding at certain times of year. I note the appellant's intention to increase the number and type of animals using the land. The scale of the building is appropriate for the amount of equipment, machinery and fodder proposed to be stored in it. I am satisfied from the evidence before me that there is a need for secure storage and for a permanent building, as the other structures on site are more temporary in nature and apparently unauthorised. The proposal would be located on the land which it would serve. Therefore, I am satisfied that there is an essential need for a storage building in this location.
12. Permitted development rights exist for some agricultural buildings to be converted into a residential dwelling or a flexible commercial use, subject to an application for prior approval. However, the agricultural building would need to have been in place and be solely used for agricultural purposes since 20 March 2013 or 3 July 2012 depending on the relevant Class of permitted development being considered. As the building has not yet been built these requirements could not be met.
13. Any material change of use would therefore require a planning application to be submitted. If the building was used for any other, materially different, purpose without permission then it would be open to the Council to consider taking enforcement action. Therefore, it would not be necessary to impose a condition to limit the use of the building to agriculture only, as other uses would be subject to planning control.
14. Consequently, I conclude that the proposal would meet the exception in the Framework and Policy EV1 for new agricultural buildings and therefore would not be inappropriate development within the Green Belt.

#### *Openness of the Green Belt*

15. The site is to the east of Kirkby-in-Ashfield and is surrounded by open countryside comprising predominantly grassland fields, which contributes to a generally rural and open character. There are however trees and hedging between the site of the proposed building and the highway.
16. The proposed building would be relatively modest in terms of an agricultural building and proportional to what it would be used to store. Although it would be larger, the building would be set against the backdrop of the existing buildings. Furthermore, it would be well screened from the road, such that it would only be visible in fleeting views. Consequently, the proposed building would have a limited effect on the openness of the Green Belt.
17. Moreover, and very significantly in my view, the courts have found that where development in the Green Belt is found to not be inappropriate, it should not be regarded as harmful to the openness of the Green Belt. Consequently, the

proposal would not adversely affect the openness of the Green Belt and would therefore comply with ALPR Policy EV1 in this respect.

*Character and appearance of the area*

18. The design and materials of the proposal are clearly those of an agricultural building, and therefore while it would be visible from nearby properties and land, it is a type of development that would not be unusual in a rural, agricultural setting. Given the existing screening, it would have a limited visual impact in wider views. The Council suggests it would increase traffic movements, however as it would be used in association with the existing use of the land, I consider this unlikely. Overall, therefore, it would be in keeping with the rural and open character of the area.
19. Neither local policy nor the Framework require a justification for the precise positioning of an agricultural building or for an assessment to be made of alternative locations therefore I have not considered this further.
20. Accordingly, the proposal would not harm the character and appearance of the area. Consequently, it would accord with ALPR policy ST1(a) and (b), which require developments to not conflict with other policies in the ALPR and not to adversely affect the character of the area. The proposal would also not conflict with the natural environment aims of the Framework.

**Conditions**

21. I recommend the standard time limit condition and a condition specifying the approved plans to provide certainty and in the interests of proper planning.
22. Conditions restricting the use of the building to agriculture and equestrian storage use only and for the removal of the building if it is no longer required for agriculture have been suggested. It would not be reasonable to limit the use as suggested, as that would include a use which is outside of what permission is sought for. As I have found that the proposal would not harm the Green Belt or the area, there is no need for a condition to require it to be removed at a later date.

**Conclusion and recommendation**

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions listed above.

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal and grant planning permission subject to the conditions above.

*L McKay*

INSPECTOR