



Appeal Decision

Site visit made on 27 July 2022

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 28th September 2022

Appeal Ref: APP/B3030/C/22/3293543

Land east of Blidworth Lane, Blidworth, Mansfield, Nottinghamshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Gemma Caddy against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 14 February 2022.
- The breach of planning control as alleged in the notice is without planning permission, operational development on 'the Land' comprising of the construction of a timber stable building (marked 'X' on the attached Location Plan and identified within photograph 1)
- The requirements of the notice are:
 - i) Remove from the site, the timber stables building (marked X on the attached location plan and identified on photograph 1) along with resultant waste and materials.
- The period for compliance with the requirement is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: Subject to a variation, the enforcement notice is upheld and the appeal is dismissed.

Decision

1. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The parties indicated during the course of the appeal that the plan attached to the notice is not correct. The parties have therefore agreed upon a new replacement plan. I will therefore amend the notice to the extent that the new enforcement plan replaces the original plan. The amended plan does not alter the nature of the allegation which relates solely to the construction of a building.

Main Issues

4. The main issues are :
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies having regard to the effect of the development on the openness of the Green Belt;

- the effect of the development on the character and appearance of the area; and
- if the development is inappropriate development, 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 the development.

Reasons

Inappropriateness

5. The appeal site is within the Green Belt and was originally part of a larger agricultural field but is now described by the appellant as a pony paddock. The appeal building is a rectangular timber building with three stable type doors and storage space.
6. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. Paragraph 148 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It also states that any harm to the Green Belt should be given substantial weight. Spatial Policy 4B of the Council's Amended Core Strategy states that development in the Green Belt should be determined in accordance with the Framework.
7. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the proposal falls within one of the listed exceptions. The appellant seeks to rely upon Paragraph 149 b) which allows for *the provision of appropriate facilities in connection with the existing use of land or a change of use) for..... outdoor recreationas long as the facilities preserve the openness of the Green Belt and do not conflict with the purpose of including land within it.* The equestrian use taking place is a form of outdoor recreation. Since the appeal was lodged, the Council has granted planning permission for a change of use of the appeal site for a mixed agricultural and equestrian use ¹. Neither party has indicated how the appeal site operates in terms of mixed use although the appellant has referred to plans to graze sheep in the future. The Council has said that the exception may apply but has not provided any further details. In any event, equestrian use is currently taking place as part of the lawful use of the appeal site which does fall within the definition of outdoor recreation.

Openness

8. However, in order to fall within the exception contained in Paragraph 149 b) the development has to be then assessed under the second limb of the exception which refers to preserving openness and not conflicting with Green Belt purposes. The extract provided in paragraph 10 of the appellant's statement is from a Barnsley decision ² that was subsequently redetermined and dismissed. It is not the case that an assessment of Paragraph 149(b) of the Framework can consider development to be not inappropriate without

¹ 22/00093/FULM

² APP/R4408/W/18/3203411

assessing openness. All of the appeal decisions referred to including the re-determination support that view.

9. The openness of the Green Belt is clearly evident, with largely open fields around the appeal site. Openness requires consideration of both spatial and visual aspects of the development. Although there may be limited views from outside the appeal site, the development is still capable of affecting openness. The development exists in what was previously an open field, spatially there is therefore now development where no development previously existed. The appellant indicates that the development is less than 50 square metres and can be considered a small scale facility. However, whether a development is modest or small scale in terms of openness is a matter of judgement. It is very clearly a permanent building to accommodate three horses and to provide storage which is not particularly small scale and there is a loss of openness in an otherwise open appeal site in the countryside. I do not consider that the development is modest and spatially and visually it does reduce the openness of the Green Belt. There is also a degree of encroachment of development into open countryside albeit the degree of encroachment is small.
10. The appellant considers that the building has a lack of permanence which reduces any impact upon openness as ultimately the building can be removed and the appeal site "easily remediated to its original state". However, there is no intention to move the building and in any event, its size and the sloping nature of the appeal site means that options to re-locate the building elsewhere may be limited. Due to the nature of the appellant's arguments about the lack of permanence to the appeal building, the appellant was given the option to pursue a ground (b) appeal but declined to do so. In the absence of a ground (b) appeal, the breach of planning control alleged namely the erection of a building has occurred as a matter of fact. Any grant of planning permission for the development would be for the existing permanent building in its current location. The assessment of any impact on openness is therefore of a permanent building in the event of planning permission being granted. The appellant has referred to the backdrop of agricultural buildings to the north just beyond the appeal site impacting upon the openness of the Green Belt. However, the presence of those buildings does not alter the assessment of the openness of the appeal building.
11. I find the development cause harm to the openness of the Green Belt and is an encroachment into the countryside, which conflicts with one of the five purposes of including land in the Green Belt listed in paragraph 134 of the Framework. Since the development does not fall within the exception relied upon by the appellant, it is inappropriate development as defined in the Framework.

Character and appearance

12. Core Policies 9 and 13 of the Newark and Sherwood Core Strategy (DPD) (the Core Strategy) adopted 2019 collectively refer to development being in context with the local character and being of appropriate form and scale. The character of the surrounding area is distinctly rural with agricultural buildings being particularly visible beyond the appeal site to the north. Views looking down from the highest point of the appeal site include modest stables to the other side of Blidworth Lane. Whilst the Council has stated that it is in the process of taking enforcement action against unauthorised development, nevertheless,

there appears to be some equestrian use with stables taking place. The Council has also permitted equestrian use on the appeal site as part of the recent planning permission. Equestrian use is therefore part of the local character within the vicinity of the appeal site.

13. The appeal site falls within the Sherwood Landscape Character Area and the Blidworth and Rainworth Wooded Estatelands (S PZ 18) which refers to the need to conserve the existing field pattern by locating small scale development within existing field boundaries and refers to promoting sensitive design and siting of agricultural buildings. The appeal building is located in the north west corner and is in close proximity of Blidworth Lane. The building is screened from the road due to hedgerows and trees along the front of the appeal site. The appellant has erected post and wire fencing to the west and north and eastern boundaries. Access to the appeal site is through a field gate to the south west corner.
14. The Council considers that the appeal building by reason of its size and prominence is harmful to the rural character and appearance of the open countryside. The development is located at the lowest part of the appeal site behind the screening of the main road, and whilst not particularly modest, the development is not visually prominent. Further landscaping through conditions could further reduce the visual impact within the appeal site. Walking down from the highest point of the appeal site towards the development, partial views appear at about the half way point in the appeal. The grant of approval for the agricultural buildings close to the appeal site does provide a backdrop and some screening to the appeal site to the north which lessens the visual impact of the development in this particular location. The existing field pattern is not lost by the erection of the stable building which is of a traditional design for its location with a low pitched roof and timber walls.
15. Having regard to the character of the area which includes some stable buildings as well as agricultural buildings and the location and nature of the development, I do not share the Council's view that find that the stable building is prominent and a highly visible addition. The Council considers that timber stables do not demonstrate an effective and efficient use of land that optimises site potential at a level suitable for local character. However, the Council does not explain why it considers that to be the case when the lawful mixed use of the land is equestrian and agricultural. Spatial Policy 4B relates solely to Green Belt and is not a relevant policy when assessing the character and appearance of the development.
16. I therefore find that the development does not harm the character and appearance of the countryside. I find the development does not conflict with Policy DM5 of the Allocations and Management DPD which relates to design and requires development to be assessed in accordance with Core Policies 9 and 13 of the Core Strategy as well requiring character to be reflected in the scale, form and materials for new development. I find the development to not be in conflict with Core Policies 9 and 13 of the Core Strategy which amongst other things collectively refer to development being in context with the local character.

Other Matters

17. The appellant has referred to two other appeal decisions apart from the Barnsley which she considers to be of relevance. The appeal which relates to

Warrenwood Manor ³ allowed an equestrian building to be added to an existing extensive equestrian complex which included a substantial stable block for 20 horses. The equestrian complex itself was located within the grounds of a large country house. Tipulo Stud ⁴ addressed a number of issues including the operational need for a permanent residential home. The Barnsley decision resulted in a dismissal on re-determination and related to a number of field shelters scattered around a field.

18. I do not therefore find the decisions referred to by the appellant to be directly comparable to the development in terms of siting or location. The appellant has referred to a number of small scale equestrian uses with stables and studs in the vicinity of the appeal site. A third party has provided some details of various developments. However, I have limited details of the circumstances in which other developments may have been given planning permission, whether they are in the Green Belt and whether very special circumstances were applied. As with the appeal decisions, each case turns upon their own particular facts and circumstances which also means that any single decision is unlikely to create a “precedent effect”.
19. The decision as to whether it is expedient to take enforcement action is a matter for the Council and whilst pre- application advice was sought, it does not constitute formal advice. The Council states that it did not in any event indicate that a building would be acceptable in planning terms and drew a distinction in terms of openness between equestrian use and stables.

Other Considerations

20. The appellant has not specifically advanced “very special circumstances” as she is of the view that the development is not inappropriate development. However, the appellant does state that the size of the development is intended to relate to the minimum required for the lawful uses of the appeal site for equestrian use and agriculture which the appellant states will be the grazing of sheep in the future. Nevertheless, a grant of planning permission for a change of use which includes equestrian use is not in itself sufficient to justify the grant of an associated permanent stable particularly in the Green Belt. Not all horses require stabling on the land that they graze on. I therefore attach limited weight to this matter.

Planning Balance

21. The development is inappropriate development in the Green Belt which does have an adverse effect upon openness to the Green Belt. Inappropriate development should not be approved except in very special circumstances which will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. I attach substantial weight to the harm to the Green Belt. Whilst I have found that the development does not harm the character and appearance of the area that is a neutral matter.
22. In my planning judgement, the considerations advanced in support of the development, whether taken individually or cumulatively, do not, on balance, clearly outweigh the identified harms. Very special circumstances do not

³ APP/C/1950/W/19/3227024

⁴ APP/A1910/W/18/3203796

therefore exist in this case. The development is in conflict with the Green Belt policy set out in Policy 4B of the Amended Core Strategy and the Framework.

Conclusion

23. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice subject to the variation and refuse to grant planning permission on the deemed application made under Section 177(5) of the 1990 Act.

E Griffin

INSPECTOR

Plan

This is the plan referred to in the decision dated : 28 September 2022

by E Griffin LLB Hons

Land east of Blidworth Lane, Blidworth, Mansfield, Nottinghamshire

Reference: APP/B3030/C/22/3293543

Scale: Not to Scale

