



Appeal Decision

Site visit made on 3 November 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2022

Appeal Ref: APP/A1910/W/22/3294517

Land at Berry Farm, Upper Bourne End Lane, Hemel Hempstead, HP1 2RR

- 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 Mrs Rachel Wiseman against the decision of Dacorum Borough Council.
 - The application Ref 21/04223/RET, dated 5 November 2021, was refused by notice dated 9 February 2022.
 - The development is three steel containers (clad in timber) and post and rail fencing.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The containers and fencing have been placed and erected on the site, and the appeal has been considered on this basis. Within the original description, the development was described as being retained. As this word does not describe the development, it has been omitted from the description above.

Main Issues

3. The site is within the Green Belt and so the main issues are:
 - whether the scheme is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the Development Plan;
 - the openness of the Green Belt;
 - character and appearance of the area; and
 - if the scheme is inappropriate development, whether 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

Whether inappropriate development

4. The application site comprises a small parcel of land accessible via an access track off Upper Bourne End Lane. It comprises three wood clad metal storage

- containers, each measuring some 7.5m x 3m in area, and a yard area enclosed by a post and rail fence. Outside of this, there are fenced pig paddock areas, including an enclosed area with a male pig and associated shelter.
5. Paragraph 149 of the Framework states that new buildings or development are inappropriate unless they fall within listed exceptions. One such exception is buildings for agriculture. Given the appellant's justification for their permanent retention, the altered containers are considered buildings for the purposes of Green Belt policy. Policy CS5 of the Dacorum Core Strategy (CS) 2013 states Green Belt policy will be applied to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. Within the Green Belt, small-scale development will be permitted, including uses defined as appropriate in national policy.
 6. The definition of agriculture is established in Section 336(1) of the Town and Country Planning Act 1990 and includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.
 7. In a previous enforcement appeal decision dated August 2021, an Inspector considered that the use of the appeal site as a pig breeding enterprise has not, on the balance of probability, resulted in a material change of use. However, every proposal has to be considered on its particular planning merits dependent on the evidence. Whilst the previous decision is a material consideration, an overall assessment has to be carried out as to whether the retained buildings are agricultural.
 8. In this respect, the buildings are used for the storage of equipment, feed and materials, basic daytime catering facilities and the keeping of hay/straw. One unit was laid out with straw to accommodate pigs. However, the need for storage areas for equipment and materials would not be great given the small size of the site. There were less than 10 pigs present on my site visit whilst in the previous appeal, there were 15 pigs present. The numbers of pigs only represent snapshots in time but the size of the site would significantly restrict the number of possible pigs, and the Council has indicated that the species of pig breed present would require only a very small amount of daily feed. Moreover, the use of a metal storage container, with domestic sized entry/exit doors, as an animal shelter for 6 female pigs, is not persuasive justification that the buildings are agricultural.
 9. For all these reasons, the size, design and steel construction of the buildings are unjustified in relation to agricultural use and therefore, it has not been demonstrated that the buildings are agricultural. Consequently, they represent inappropriate development.

Openness of the Green Belt

10. The 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 buildings would be of a single storey scale and would cover an area of approximately 88m² in an open location where there was previously no building development, and fencing, comprising timber posts with wire fencing. The resultant loss of openness

would be visual as well as spatial, and in isolation, there would be a small harmful loss of openness within the Green Belt.

Character and appearance

11. The appeal site is located at the end of a long track. A parallel track serves a dog caring establishment with a car park area and building, close to the appeal site. This establishment has extensive paddocks for the exercise of dogs. There is small plot with poultry near to the appeal site as well. However, the predominant quality of the area is open countryside with field, paddocks and some woodland.
12. The buildings appear modular in design with their single storey rectangular shapes and flat roofs. The timber cladding and recent application of a green roof material do little to ameliorate their stark utilitarian and bulky impact, and resultant incongruity in this rural area. As such, the buildings harm the intrinsic character and beauty of the countryside.
13. Consequently, the proposed buildings by virtue of their site coverage, scale, height and appearance result in significant harm to the open character and appearance of the countryside and conflict with Policies CS5, CS12 and CS25 of the CS, which collectively and amongst other matters, require the avoidance of visual intrusion and development to help conserve and enhance the natural landscape.

Other considerations

14. The breeding of pigs generate business through selling them off to other people and organisations. The appellant also buys material and feedstuffs associated with the pig breeding. Such activities help the local economy, but the scale of the enterprise is small limiting such benefits.

Green Belt and planning balance

15. The proposal is inappropriate development in the Green Belt which is by definition harmful. Although small, there is harm to the loss of the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt. There is harm to the character and appearance of the area. Cumulatively, the weight of considerations in favour of the development is not significant. For these reasons, 'Very special circumstances' do not exist as the harm to the Green Belt by reason of inappropriateness and other harm is not clearly outweighed by other considerations.
16. The scheme represents inappropriate development harming the Green Belt and harms the character and appearance of the area in conflict with Green Belt, design and landscape character policies of the CS. The economic benefits are limited and therefore, there would be a conflict with the development plan taken as a whole. There are no material considerations to outweigh that finding. The conflict with the Framework policies for the Green Belt provides a clear reason for refusing the development.

Conclusion

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR