



Appeal Decision

Site visit made on 5 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/A1910/W/22/3290318

Land off Cupid Green Lane, Hemel Hempstead HP2 6HN

- 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 Igor Josan against the decision of Dacorum Borough Council.
- The application Ref 21/02331/FUL, dated 6 June 2021, was refused by notice dated 13 August 2021.

The development proposed is erection of a polytunnel, agricultural storage building, livestock shed, a chicken coup and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site is currently occupied by a collection of single-storey buildings enclosed by a low picket fence, accessed via a shared drive off Cupid Green Lane. The buildings include a polytunnel, the appellant states that this already has planning consent. However, I have limited information in respect of this. There are also other buildings on site including a carpentry workshop, these do not reflect the arrangement as shown on the submitted drawings. Therefore, I have determined the appeal on the basis of the submitted scheme and the proposed plans and drawings.
3. The application which is the subject of this appeal identified Ben Davis as the applicant. However, the owner of the site (Igor Josan) states that Ben Davis submitted the application on his behalf and that he (Igor Josan) is the applicant. The appeal is also lodged in the name of Igor Josan. Based on this and the information before me, I have proceeded on the basis that Igor Josan is the applicant/appellant and my Decision reflects this.

Main Issues

4. The main issues are:
 1. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 2. The effect on the openness and purposes of the Green Belt.
 3. Whether any 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

5. The appeal site and the wider field of which it forms a part of lie within the Green Belt.
6. Policy CS5 of the Core Strategy 2006-2031 (CS) permits small-scale development including building for the uses defined as appropriate in national policy, provided that it has no significant impact on the character and appearance of the countryside, and it supports the rural economy and maintenance of the wider countryside.
7. Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. However, this goes on to set out certain exceptions. This includes: a) buildings for agriculture and forestry.
8. Paragraph 149 of the Framework post-dates the Policy CS5 of the CS and therefore, I afford this greater weight.
9. The proposal is for a number of buildings, which the appellant asserts are intended for agricultural purposes. These include a polytunnel, agricultural storage building, livestock shed and a chicken coop.
10. The definition of agriculture is set out at section 336 of the Town and Country Planning Act 1990 which is relevant to the proposal and is noted below:
"agriculture" 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 purposes of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly.
11. The growing of salad, fruit and vegetable crops within a polytunnel and the housing of chickens for egg production for off-site sale and consumption would fall within the definition of agriculture above.
12. The proposed 'livestock shed' is described for storage. However, there is no reference to any animals other than chickens on the appeal site which are to be kept in the chicken coop. Therefore, there is uncertainty over the use of this building for agriculture. More significantly, although the agricultural storage barn is intended for storage in connection with the horticultural enterprise, part of this building would incorporate a carpentry workshop.
13. Irrespective of the carpentry being for agricultural and farm related structures, and the appellant's company registration, referring to 'Mixed farming'. This does not fall within the above definition of 'agriculture'. Therefore, this building would not be exclusively for agriculture and does not fall within the exception under of Paragraph 149 (a) of the Framework.
14. Even though some of the buildings may have agricultural purposes, on the evidence before me the carpentry element is an integral component of the proposal. Because of this and the uncertainty about the use of the livestock shed, the proposal does not fall under Paragraph 149 (a) or any other exemption under this paragraph of the Framework and therefore is inappropriate development.

Openness and purposes of the Green Belt

15. Paragraph 137 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. The extent to which a proposal may cause harm to openness, might depend on factors such as its spatial and/or visual implications. This is a matter of planning judgement.
16. On the information before me, the appeal site was historically an open field and the proposed buildings would be sited within a relatively open part of the site, almost at the head of the shared drive. Even though the proposed development would be flanked by previously approved buildings on two sides, collectively, the proposed buildings because of their footprints and scale would have an erosive effect on the visual and spatial openness of the Green Belt.
17. The proposed buildings would entail the permanent encroachment of development into the countryside and would therefore conflict with paragraph 138 c) of the Framework, which relates to one of the purposes of including land within the Green Belt.
18. For the above reasons, the proposal would harm the openness and conflicts with one of the purposes of the Green Belt.

Other Considerations

19. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It is stated that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. Consistent with national policies, Policy CS7 of the CS, supports uses associated with a farm diversification project, which can be demonstrated to be necessary for the continuing viability of the farm business and consistent with the principles of sustainable development.
21. The proposal would support the diversification of the rural economy, whilst also enabling some agricultural activity on the site. However, given the harm to the Green Belt this would not be consistent with the principles of sustainable development. Therefore, the proposal and any benefits arising from this are only afforded moderate weight.
22. Agricultural buildings are supported under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Any such application needs to show that such a building meets with the conditions and limitations of the relevant provisions. On the evidence before me, there is nothing to suggest that the appeal site benefits from such provisions and therefore this attracts little weight in the overall balance.
23. I have taken account of the appellant's personal circumstances which led to him occupying the appeal site and the vital support the business offers him and his family. However, these are personal matters that do not heavily influence the planning merits of the case and the need to make planning decisions in the wider public interest.
24. The appellant has referred to other uses that have been approved or are being undertaken on nearby land in the Green Belt. Nonetheless, the full details of

these are not before me. As such, I am unable to draw any comparisons or conclusions. Accordingly, I have determined the proposal before me on its merits. These other uses are therefore afforded limited weight.

The Green Belt balance

25. The proposal would harm the Green Belt by way of inappropriateness and loss of openness. The proposal also conflicts with one of the purposes of the Green Belt. The Framework requires substantial weight to be given to any harm to the Green Belt.
26. Having taken account of all matters raised in support of the proposal, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal conflicts with Policy CS5 of the CS and the Green Belt provisions of the Framework.

Conclusion

27. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR