



Appeal Decision

Site visit made on 18 October 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2022

Appeal Ref: APP/R4408/C/22/3302325

Dance Lane Farm, Dance Lane, Crane Moor, Sheffield S35 7AW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act").
 - The appeal is made by Mr Graham Turner against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The notice was issued on 16 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission; The material change of use of the Land to a mixed use for agriculture and as holiday accommodation (the accommodation also described as a Shepherd's Hut).
 - The requirements of the notice are:
 - (i) Cease the use of the Land for holiday accommodation described in paragraph 3 of the notice;
 - (ii) Remove from the Land the unauthorised holiday accommodation (also described as a Shepherd's Hut) in its entirety along with any related infrastructure comprising of hard or loose stoned surfacing, timber boardwalk, fencing and outdoor furniture, hot tub, and utility connections; and
 - (iii) Ensure that the Land is restored to its original condition before the unauthorised change of use took place.
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. 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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

2. At Section 3 of the drafted notice, the breach of planning control relates to '*The material change of use of the Land to a mixed use for agriculture and as holiday accommodation (the accommodation also described as a Shepherd's Hut)*'. At Section 4 of the drafted notice, the reasons for issuing the notice relate to a detached building (Shepherds Hut).
3. The appellant asserts that the 'Shepherds Hut' (hereafter "the hut") is on wheels, and not fixed permanently to the ground. Therefore, it should not be considered as a building, and the allegation has not occurred. However, the stated reasons for issuing the notice should not be confused with the alleged breach of planning control at Section 3 of the notice.
4. The notice alleges only a material change of use, being a mixed use of agriculture and holiday accommodation. It does not allege the erection of a

building as 'operational development' as defined in section 55 of the Act. In this regard it should be noted that the appeal on ground (a) /deemed application for planning permission can only seek planning permission for the mixed use of the land as alleged. While that necessarily includes the siting of the hut there is no need in this case for me to make a finding as to whether or not it constitutes a 'building'.

5. The appellant refers to the '*Land*', shown on the notice plan with a red line as a relatively large area and suggests that the relevant planning unit in relation to the alleged change of use should be smaller.
6. In this regard the appellant's own evidence is that 'Dance Lane Farm' was a dairy livestock farm, and the land has an agricultural holding number. The milking parlour and various other farm outbuildings are standing but unused. The appellant does not currently have a dairy herd, but allows grazing of livestock on the fields. All of these features, within the red line of the notice plan, were consistent with what I saw during my visit to the appeal site.
7. Furthermore, the suggested multiple separate planning units at the appeal site are not supported by any convincing evidence of such current or historical physically and functionally separate uses and occupation. All of the land referred to appears to have been in use as a single unit for agricultural purposes. Consequently, I find that the material change of use falls within the land shown on the plan attached to the notice as alleged. Had an appeal on ground (b) been made (that the matters alleged had not occurred) it would have failed for these reasons.
8. The appellant considers that the Council have failed to define "infrastructure" in the requirement at Section 5(ii) of the notice, rendering it invalid. However it states "*infrastructure comprising of hard or loose stone surfacing, timber boardwalk, fencing and outdoor furniture, hot tub, and utility connections*". As such, I consider that the wording of 5(ii) is sufficiently clear in setting out what needs to be removed in order to comply with the requirement.
9. The '*Supplementary Planning Document: House Extensions and Other Domestic Alterations, (adopted May 2019)*' (SPD) has no relevance in this case. The hut is clearly separate from the main house and has been sited for commercial use as holiday accommodation. I have therefore, given the SPD no weight in reaching my decision.

The appeal on ground (a) and the deemed planning application

Main Issues

10. The main issues in this case are:

- Whether the development would be 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 development on the openness of the Green Belt; and
- If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development

11. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
12. Policy GB1 of the Barnsley Local Plan (adopted January 2019) (LP) sets out that the Green Belt will be protected from inappropriate development in accordance with national planning policy. LP Policy GB3, allows the change of use in the Green Belt provided that development meets certain criteria.
13. The appellant refers to the exceptions to being inappropriate development in relation to buildings and material changes of use listed at paragraphs 149 and 150 of the Framework respectively.
14. In this case, the development is for a change of use to a mixed use for agriculture and as holiday accommodation. The holiday accommodation relates to the hut. It is of a substantial size, constructed of wood with a corrugated roof. It is advertised as commercial holiday accommodation as a 'Shepherds Hut/Glamping Retreat/Well-Being Retreat' on the Airbnb website, and as I saw was occupied by guests at the time of the site visit.
15. The hut is connected to several utility services, of which I saw including electricity points, water, drainage, sewerage with pipes connecting in and around the hut to external connections. The hut was raised off the ground with concrete stones and plinths raising the height, and supporting the hut, with the wheels positioned on top. Wooden steps are attached from the ground level to the hut. Fencing and walls enclose the area, with decking, paving slabs, and gravel having been laid around the site area. Internally, the hut has considerable floor space and is laid out with a bedroom, bathroom, cooking and washing facilities. There were also other outdoor recreation facilities associated with the hut, being a hot tub, seating and BBQ area.
16. As I saw, there are immediate views of the site from along Dance Lane, particularly due to the rising topography of the land where the hut and associated structures, are positioned at a higher level than Dance Lane. The existing vegetation does little to prevent this, and the development is clearly discernible in those views. By itself the hut has a considerable physical presence which reduces openness both visually and spatially, thereby resulting in harm to the Green Belt. Its occupation and associated comings and goings for holiday use further reduce openness.
17. As such, it also conflicts with one of the purposes of the Green Belt in seeking to safeguard the countryside from encroachment. Since the change of use does not preserve openness and conflicts with one of the Green Belt purposes it does not constitute an exception within paragraph 150(e) of the Framework.
18. With regard to paragraph 149 of the Framework, the use for holiday accommodation is not one of the appropriate facilities listed at 149(b); it does not replace a building that was in the same use listed at 149(d); and does not

constitute the redevelopment of 'previously developed land'¹ in 149(g). In relation to (b) and (d) it would also fail to preserve openness and would conflict with one of the Green Belt purposes as I have set out earlier.

19. As the appeal scheme would not meet any of the exceptions in paragraphs 149 or 150 of the Framework, it would constitute inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The development is also contrary to Policy GD1, GB1, GB3 of the LP, which seek to protect the Green Belt from inappropriate development.

Openness and purposes

20. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence.
21. For the reasons set out previously, I conclude that the development fails to preserve the openness of the Green Belt and would not assist in safeguarding the countryside from encroachment.

Other Considerations

22. The appellant has referred to paragraph 84 of the Framework, and that the 'holiday accommodation' provides economic benefits to Dance Lane Farm in the form of farm diversification, and to the wider area with tourists coming to the site. I acknowledge that sustainable rural tourism is supported and benefits other businesses in the area, a positive consideration for the scheme. However, the wider benefits would be relatively limited. The development does not indicate any additional rural employment opportunities, and the provision of 1 self-catering unit would be minimal in terms of improving the tourist value of the area. As such, I attach only limited weight to these considerations.
23. The appellant asserts that under the GPDO² Part 6(A), the hut could be erected anywhere at the farmyard. I have no evidence before me that it would meet the limitations in Part 6(A) of the GPDO. Moreover, the reference to Class A.1(c), does not permit development if it would consist of, or include, the erection, extension or alteration of a dwelling, and for the purposes of Part 6 it does not permit the provision of a building, structure or works not designed for agricultural purposes. I do not consider this is a realistic or genuine fallback position, therefore, I have given this consideration no weight.
24. My attention has been drawn to other development in the Green Belt relating to a shepherd's hut at 'Quarry Cottage, Well Lane, Wortley'. However, I do not have the precise details of that case, and therefore cannot be certain it is directly comparable to the development before me. Moreover, I have dealt with this appeal on the basis of the evidence and my own observations.

¹ Framework Annex 2 excludes from the definition of 'previously developed land' land that is or last occupied by agricultural buildings

² The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

Planning Balance and Conclusion

25. The development is inappropriate development in the Green Belt. This is harmful by definition and to which I attach substantial weight. The development would reduce the Green Belt's openness, which gives rise to additional harm, and it does not assist in safeguarding the countryside from encroachment. The substantial harm renders the development contrary to the requirements of the Council's Development Plan policies and in conflict with the Framework.
26. Against the substantial harm I have identified, the other considerations advanced by the appellant are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
27. The development would be contrary to the development plan and the Framework taken as a whole. There are no other material considerations that would indicate that the development should be determined other than in accordance with the development plan.

Conclusion

28. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

K A Taylor

INSPECTOR