The Planning Inspectorate

Appeal Decisions

Site visit made on 23 May 2023

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal A Ref: APP/B3030/C/22/3305125
Land known as Plots 9 And 10, New Lane, Blidworth NG21 0LX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act) by Ms Sally Spicer against an enforcement notice issued by Newark and Sherwood District Council.
- The notice was issued on 11 July 2022.
- The breach of planning control as alleged in the notice is operational development on 'the Land' comprising of the construction of a stables, field shelter and store (marked 'X' and 'Y' on the attached Location Plan and identified within plan 1).

  Plot 9 - Stable and field shelter with an approximate footprint of 24m2 and pitch height of 2.6m;
  Plot 10 - Stable building and store with approximate footprint of 33m2 and pitch height of 2.6m.

  and development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian).
- The requirements of the notice are 1) Cease the current use of the land for the keeping of horses (equestrian use) – including removing from the land with all and any associated paraphernalia such as jumps etc; and resultant waste and materials; and 2) Remove from the land the stables, field shelter and store (marked 'X' and 'Y' on the attached Location Plan and identified within plan 1).
- The period for compliance with requirement 1) is 84 days and the period for compliance with requirement 2) is 140 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the 1990 Act.

Appeal B Ref: APP/B3030/W/22/3305123
Plots 9 and 10, land at New Lane, Blidworth NG21 0LX

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Ms Sally Spicer against the decision of Newark and Sherwood District Council.
- The application Ref 21/02638/FULM, dated 14 December 2021, was refused by notice dated 11 July 2022.
- The development proposed is retention of change of use to equestrian use and retention of field shelters.

Decision

Appeal A Ref: APP/B3030/C/22/3305125

1. The appeal is allowed insofar as it relates to a material change of use and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the change of use of the land from agriculture to the keeping of horses (equestrian) at Plots 9 and 10, New Lane, Blidworth.

2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the retention of stable building and store.

Appeal B Ref: APP/B3030/W/22/3305123

3. The appeal is allowed insofar as it relates to a material change of use and planning permission is granted for the change of use of land from agriculture to the keeping of horses (equestrian) at Plots 9 and 10, New Lane, Blidworth in accordance with the terms of the application Ref. 21/02638/FULM, dated 14 December 2021, and the plans submitted with it so far as relevant to that part of the development hereby permitted.

4. The appeal is refused insofar as it relates to operational development and planning permission is refused for the development already carried out, namely the erection of stable building and store at Plots 9 and 10, New Lane, Blidworth.

Procedural matters

5. The stable and field shelter on Plot 9 has been removed. The ground (a) enforcement appeal and the planning appeal, which are the same and given the difference between the description of development in the planning application and the description of the operational development that is a breach of planning control in the enforcement appeal, will be determined on the basis that the Appellant is seeking the 'change of use of land from agriculture to the keeping of horses (equestrian) and erection of stable building and store'.

Reasons

6. Development of, and on, the land has two elements; operational development and a material change of use. Each element must be considered separately, because national planning policy set out in the National Planning Policy Framework (NPPF) for operational development in the Green Belt, within which the appeal site is situated, differs from that for a material change of use.

7. The Council granted planning permission (Appl. No. 21/01541/FULM) for 'change of use from agricultural use to equestrian use' for land off Blidworth Lane, Blidworth on 5 November 2021. They also granted planning permission (Appl. No. 22/00093/FULM) for 'change of use of agricultural land to a mixed agricultural and equestrian use' for land in a similar location on 8 March 2022. Both sites are close to the appeal site and within the Nottingham and Derby Green Belt. In both cases the Council concluded that the change of use of the land, not involving any operational development, would "…preserve the openness of the Green Belt" and would not conflict with any of the five purposes of including land in the Green Belt as set out in paragraph 138 of the NPPF.

8. Paragraph 150 of the NPPF states that certain other forms of development, which include material changes in the use of land, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The Council, in recently granting the aforementioned planning permissions, clearly do not regard the change of use of agricultural land to the keeping of horses to be inappropriate development in the Green Belt or to cause any landscape harm. The planning application was refused for highway safety reasons but New Lane is heavily rutted, little used by vehicles,

traffic speeds are low, and passing places are available, and pedestrians have clear views and will be well aware of moving vehicles. There are no concerns for highway or pedestrian safety. The use of the land for the keeping of horses does not cause harm either by reason of inappropriateness or for any other reason.

9. It is important that planning decisions are consistent if circumstances are the same and irrespective of whether they are made at application or appeal stage. The circumstances of the alleged change of use in this case are the same as those cases which resulted in the grant of the two recent planning permissions. Planning permission has thus been granted for the change of use element of the development.

10. Paragraph 147 of the NPPF states that "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 148 states that "'Very special circumstances' will not exist unless the potential harm by reason of inappropriateness, and any other harm…, is clearly outweighed by other considerations".

11. The main issues are; first, whether the operational development, the erection of stable building and store, is inappropriate development in the Green Belt; second, whether the operational development causes any harm other than by reason of inappropriateness; and third, whether there are any material considerations that outweigh the harm by reason of inappropriateness and other harm such that very special circumstances exist.

The first issue – inappropriate development

12. Paragraph 149 of the NPPF states that the construction of a new building is inappropriate in the Green Belt except where the building is for one of seven stated exceptions. One of the exceptions is the provision of appropriate facilities for outdoor recreation, amongst other activities, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The use of the appeal site for equestrian use is for the purposes of outdoor recreation; the Appellant keeps her horses on the land for her own enjoyment and recreation.

13. Openness, as a concept, has two elements; spatial and visual. The building on the land has a footprint of about 33 square metres and a height of about 2.6 metres. There is no doubt that the building, given its footprint and height, has undermined the spatial openness of the Green Belt. The building, constructed in timber under a black fibre cement roof, is in a remote open location and is intrusive and harmful to visual openness.

14. One of the five purposes of including land in the Green Belt, as set out in paragraph 138 of the NPPF, is 'to assist in safeguarding the countryside from encroachment'. The stable building is not untypical of buildings found in countryside settings but, given in particular its remote location, it does conflict with this purpose.

15. The facilities for outdoor recreation that have been installed on the land, the stable building and store, does not preserve the spatial and visual openness of the Green Belt and conflicts with a purpose of including land in the Green Belt. The proposed retention of the building is therefore inappropriate development.

The second issue – other harm

16. The appeal site is two paddocks in open undulating countryside generally in use for the keeping of horses. The stable building is not screened and is visible from all directions. The building is a prominent and intrusive feature in the open countryside that harms the character of the landscape and conflicts with Core Policy 13 of the Amended Newark and Sherwood Core Strategy 2019 (CS).

The third issue – very special circumstances

17. The Appellant has not advanced any material considerations that could be weighed against the harm that has been caused by reason of inappropriateness and to the character of the landscape. The harm caused by reason of inappropriateness and to the character of the landscape is not outweighed by other considerations and very special circumstances do not exist in this case.

Conclusion

18. The operational development that is a subject of the enforcement notice is inappropriate development and harms the character of the landscape. The harm by reason of inappropriateness and to the character of the landscape is not outweighed by other considerations and very special circumstances do not exist in this case. The appeals, with regard to operational development, thus fail and planning permission is withheld for the erection of stable building and store.

John Braithwaite

Inspector