



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/22/3304821

Land known as Plot 2, Cross Lane, Blidworth NG21 0LX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by Mr P Staley against an enforcement notice issued by Newark and Sherwood District Council.
 - The notice was issued on 21 July 2022.
 - The breach of planning control as alleged in the notice is operational development on 'the Land' comprising of the construction of an open field shelter and store (marked 'X' on the attached Location Plan and identified within photograph 1).
Open field shelter and store with an approximate 41m² and pitch height of 2.8m.
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 open field shelter and store (marked 'X' 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)(f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B Ref: APP/B3030/W/22/3304901

Plot 2, Cross Lane/New Lane, Blidworth NG21 0LX

- 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 Mr P Staley against the decision of Newark and Sherwood District Council.
 - The application Ref 21/02633/FULM, dated 13 December 2021, was refused by notice dated 11 July 2022.
 - The development proposed is change of use to equestrian use and retention of field shelter/stable/store.
-

Decisions

Appeal B Ref: APP/B3030/W/22/3304901

1. The appeal is dismissed insofar as it relates to operational development and planning permission is refused for the retention of field shelter/stable/store.
2. The appeal is allowed insofar as it relates to a material change of use and planning permission is granted for change of use of land to equestrian use at Plot 2, New Lane, Blidworth in accordance with the terms of the application Ref.

22/02621/FULM, dated 14 December 2021, and the plans submitted with it so far as relevant to that part of the development hereby permitted.

Appeal A Ref: APP/B3030/C/22/3304821

3. The appeal is dismissed and the enforcement notice is upheld.

Reasons

Appeal B

4. The development proposed 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.

5. 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.

6. 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 equestrian use to be inappropriate development in the Green Belt or to cause any landscape harm. The 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 equestrian use does not cause harm either by reason of inappropriateness or for any other reason.

7. 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 appeal case are the same as those 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 proposed development.

8. 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".

9. The main issues are; first, whether the operational development, the retention of field shelter/stable/store, is inappropriate development in the Green

Belt; second, whether the operational development causes any harm other 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

10. 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 his horses on the land for his own enjoyment and recreation.

11. Openness, as a concept, has two elements; spatial and visual. The proposed development includes the retention of field shelter/stable/store with a footprint of about 41 square metres and a height of about 2.8 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 set against a backdrop of boundary vegetation to Cross Lane and is not unduly intrusive in the landscape or harmful to visual openness.

12. 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 field shelter/stable/store building is not untypical of buildings found in countryside settings and, given in particular its location alongside boundary vegetation and close to Cross Lane, does not conflict with this purpose.

13. The facilities for outdoor recreation that have been installed on the land, the field shelter/stable/store, does not preserve the spatial openness of the Green Belt. The proposed retention of field shelter/stable/store is therefore inappropriate development.

The second issue – other harm

14. The appeal site is a generally open paddock on the south-east side of Cross Lane, though it is accessed off New Lane, an unmade and rough track. The plot has a lane frontage along which there is dense vegetation. To the east for some distance is open undulating countryside generally in use for the keeping of horses. The field shelter/stable/store building, which is constructed in materials sympathetic to its countryside setting and given the backdrop of boundary vegetation, is unobtrusive. There is, in this regard, no conflict with Core Policy 13 of the Amended Newark and Sherwood Core Strategy 2019 (CS).

The third issue – very special circumstances

15. The only matter advanced by the Appellant that could be considered to be a material consideration to be weighed against the harm that is caused by reason of inappropriateness is other buildings associated with similar equestrian uses in the area. Precedent is not a reason to allow harmful development because the harm would become cumulative. It is, in any event, a fundamental planning principle that a development proposal should be judged on its individual merits with regard to current planning policy. The harm caused by reason of inappropriateness is not outweighed by other considerations and very special circumstances do not exist.

Conclusion

16. The operational development that is a subject of the enforcement notice is inappropriate development and undermines the openness of the area. The harm by reason of inappropriateness is not outweighed by other considerations and very special circumstances do not exist in this case. The appeal, with regard to operational development, thus fails and planning permission is withheld for retention of field shelter/stable/store.

Appeal A

The ground (f) appeal

17. The breach of planning control has two distinct elements; operational development and a material change of use. Planning permission has been granted, in Appeal B, for the change of use of land to equestrian and formation of new access tracks and, given section 180(1) of the 1990 Act, the enforcement notice ceases to have effect in so far as it relates to the material change of use element of the breach of planning control. The ground (f) appeal therefore relates only to requirement 2. The notice seeks to remedy a breach of planning control and the remedy must be the removal from the land of the operational development that is the breach of planning control. The removal of the field shelter/stable/store block is not therefore excessive and the ground (f) appeal thus fails.

The ground (g) appeal

18. With regard to the effect of section 180(1) of the 1990 Act, the ground (g) appeal relates to the period for compliance with requirement 2. Compliance with the requirements of an enforcement notice should be achieved as soon as is reasonably possible. 140 days is a reasonable period to achieve removal of the stable block. The ground (g) appeal thus fails.

John Braithwaite

Inspector