



Appeal Decision

Site visit made on 18 May 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2023

Appeal Ref: APP/J3720/W/23/3314777

Woods Farm, Birmingham Road, Henley in Arden, Warwickshire B95 5QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Geoff Gilbert of Woods Farm Christmas Trees against Stratford-on-Avon District Council.
 - The application Ref 22/01873/FUL, is dated 23 June 2022.
 - The development proposed was originally described as "Construction of an agricultural building for use as a store for agricultural plant, machinery, vehicles, tools, Christmas trees and welfare facilities, and an access track thereto and landscaped mounding".
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Decision

1. The appeal is dismissed and planning permission for the construction of an agricultural building for use as a store for agricultural plant, machinery, vehicles, tools, Christmas trees and welfare facilities, and an access track thereto and landscaped mounding is refused.

Applications for costs

2. An application for costs was made by Woods Farm Christmas Trees against Stratford-on-Avon District Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The appeal results from the Council's failure to reach a decision on the application submitted by the appellant. There is no formal decision from the Council as jurisdiction over that was taken away when the appeal was lodged. However, in its appeal statement the Council sets out its case and what its reason for refusal would have been had it made a formal decision.
4. The applicant was Mr Geoff Gilbert, but the appeal was lodged by Mr Tom Gilbert. However, the right of appeal is given only to the original applicant, as confirmed by section 78 of the Town and Country Planning Act 1990 (as amended). Therefore, the appeal will proceed only in the name of Mr Geoff Gilbert.

Preliminary Matters

5. The site is in the Green Belt. There is no dispute between the parties that the proposal would involve a building for agriculture and would hence fall within the exception set out in paragraph 149a) of the National Planning Policy Framework (the Framework). The Council deem that the proposal would not be inappropriate development in the Green Belt and would comply with Green Belt Policy CS.10 of the Stratford-on-Avon District Core Strategy (the 'Core

Strategy’). I have no reason to take a different view. As the proposal would not amount to inappropriate development in the Green Belt there is no need for me to consider whether very special circumstances exist.

Main Issue

6. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is a field situated just north of the town of Henley-in-Arden on the west side of the Birmingham Road (the A3400), a main route to and from the town. The site is clearly visible from the A3400 and forms part of a wider swathe of gently undulating land and fields in open countryside. Apart from a row of houses set back from the road to the north of the site, this stretch of the road is undeveloped and rural in character and appearance.
8. The site also lies within the Arden Special Landscape Area (the ‘Arden SLA’), one of four SLAs that represent the distinctive landscape qualities of various parts of the district, that justify being protected through the local landscape designation. Some of the key qualities of the Arden SLA is its varied undulating topography and a range of field patterns with hedgerows and mature trees. The site’s state as an agricultural field and its undeveloped and gently sloping topography positively contributes to the character and appearance of the setting of this section of the A3400 and to the wider landscape and surrounding area within which it sits.
9. The proposal would involve the erection of a large steel portal-framed agricultural building, measuring circa 27m x 15m x 6m to eaves and 8m to roof ridge. Due to the land sloping up from the road, the ground would be excavated to cut out a flat foundation for the building, which would be set back about 30m from the road with its longest elevation running parallel to the road. In addition, a new hardcore track to the building some 3.5m wide and 144m long, would be constructed off the new access¹ to the north of the site and existing field access, away from the junction with the lane to Buckley Green. The new track would also run parallel to the A3400. Due to the slope of the land, the track would be elevated above the level of the road.
10. According to the Council’s commissioned Landscape Sensitivity Study (the LSS), LCP/Zone HO6, of which the site is part, comprises “*pastoral farmland with a regular pattern of medium/large hedged fields...The rolling/undulating topography and relatively sparse tree cover mean the area is relatively open to view including from the adjacent A3400. The area has a strong rural character.*” I saw this to be the case on my site visit. Although the site and the proposed building would be less visible when travelling north on the A3400, due to more roadside trees, the LSS concludes that the site’s high landscape sensitivity would mean “*Commercial development would be highly inappropriate in this sloping open area...*”.
11. The appellant contends that the site’s sensitivity to commercial use is not relevant as the proposal is for an agricultural building. The LSS assesses sites for either housing development or commercial development. The proposal is

¹ The new access benefits from planning permission under planning application 20/01397/FUL granted 10 September 2020.

clearly not housing. Whilst the building is for agricultural use, it is still in conjunction with a commercial operation. Furthermore, the building is not designed as a house, but a largely metal clad building that is not uncommon for some commercial uses. Therefore, in the absence of a specific agricultural category, I am satisfied that using the LSS's sensitivity assessment in relation to commercial development is not unreasonable to aid assessment of the likely impact of the proposed development on a sensitive landscape area.

12. Core Strategy Policy CS.12 seeks to protect such areas of high landscape quality by resisting development that would have a harmful effect on the distinctive character and appearance of such areas. In addition, Core Strategy Policy CS.5 seeks to maintain, amongst other things, the landscape character and quality of the district and development should avoid detrimental effects on features which make a significant contribution to the character, history and setting of a settlement or area.
13. Whilst the erection of a building in the countryside for business and/or agriculture would be acceptable in principle under Core Strategy Policy AS.10, development is still expected to minimise its impact on the character of the local landscape and area. Core Strategy Policy CS.9 also seeks to ensure that development is of a high quality and is, amongst other things, sensitive to its setting, the local landscape character and topography
14. The building and track are required to help the expansion of the appellant's Christmas tree business, that is currently operated from a farm at Shirley, with some 8 other holdings for growing trees scattered around, as land is bought as and when it becomes available. The business sells tens of thousands of trees per annum, including wholesale and retail but with the majority of sales now through the internet/delivery arm of the appellant's business. The appeal site was purchased over 3 years ago and has already been planted with trees, some of which I saw on my visit. By the end of this year's planting season there will be some 225,000 Christmas trees planted on the land.
15. The appellant states that the building would be used to store various agricultural plant and machinery, including tractors, quad bikes, sprayers and chemicals, blowers for preventing frost damage and mowers² as well as equipment for the planting, harvesting and packaging of Christmas trees, some of which are shown in the appellant's submitted photographs. It would also provide welfare facilities for staff, such as toilets and handwashing. Being able to leave equipment on site would save it, and staff, having to be transported to and from Shirley, thus saving fuel, money and time, which the appellant calculates to be about 12 hours per day for 295 days of the year³.
16. The building would be a stand-alone structure with no other farm buildings near it. Hence the building would be read as an isolated structure in this prominent roadside location. The building has a fairly typical modern agricultural appearance with a concrete blockwork base, green metal sheeting sides and grey metal sheeting roof, not uncommon in the countryside today. However, its size and height together with its elevated position and its proximity and alignment to the road for a substantial distance, would result in

² The appellant has recently been involved in trials for the sowing of ground cover clovers between the trees, which would require regular cutting by mowers.

³ These being the days when operations take place on site that require vehicles and staff to visits from Shirley and when plant, equipment, fuel, water, sprays or chemicals are trees are taken back and forth.

- an unduly visually dominant structure that would have an overbearing effect on the general undulating and undeveloped character and appearance of the area.
17. The soil excavated by cutting out the ground would be used to form an approximately 1m high earth mound between the road and the building with a hedge planted on top, which is intended to screen the building from view. The hedge would take some time to grow and mature before it reached a height that would offer any meaningful screening to the building, if indeed the planting was maintained and survived. The earth mound does not extend around the front/north elevation of the building for obvious operational reasons, so the building would not be screened when approaching from the north. Even with the building set down into the ground, the proposed earth mound would not sufficiently mitigate the harm that would be caused to the character and appearance of the area at the outset.
 18. Furthermore, the earth mound, with its steep sides and flat top about 1m wide, is not a typical landscape feature of the surrounding area. Even with grassed sides and a hedge planted on top it would be an unduly engineered and conspicuous structure located close to the road in a straight line, at odds with the gently sloping ground and the undulating wider area. The imposition of a condition to allow the Council to control the colours of the building materials would not sufficiently mitigate against a building of this size and scale in a prominent roadside location in an area designated as a special landscape area.
 19. The proposed track would be long and wide and due to the difference in ground levels, it would be a visible engineering feature at the roadside. However, due to the elevated ground above the road and the track being flat, it would not be unduly visible as to cause significant harm to the character and appearance of the area. I saw some trees had been planted between the track and the road, which are not shown on the submitted plans, but these would take some time to grow before they were able to provide any site screening.
 20. The appellant refers to the site for the building being the most appropriate, with other locations on the land being more visible and that longer tracks would be needed to access them making them less convenient. I have not been provided with details of the other locations and any meaningful assessments of them and their impact. There is little to indicate whether the building needs to be of the size proposed and whether the various equipment is unique to the site or whether plant and machinery is shared around the appellant's other holdings and buildings and gets moved around the region in any event.
 21. There would be some economic benefits of helping an established business expand, although the land was bought a few years ago and has already been planted. The proposed building would also offer operational convenience and reduced costs from not needing to move equipment and staff to and from Shirley, as well as improved on-site welfare facilities for staff. The reduction in vehicle trips to and from Shirley would also have an environmental benefit. However, there would be significant environmental harm to the character and appearance of the area, which is also a locally designated Special Landscape Area. The Framework recognises the intrinsic character and beauty of the countryside and seeks to ensure that valued landscapes are protected and enhanced.

22. Drawing all the points together, I find the benefits would not outweigh the harm that would be caused to the character and appearance of the area which lies within the locally designated Arden SLA. Accordingly, the proposal would be contrary to Core Strategy Policies AS.10, CS.5, CS.9 and CS.12 whose aims are already outlined above.

Other Matters

23. I am aware of the various prior approval applications for agricultural buildings that have been refused on the land over the last few years, under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). They were not planning applications and therefore were determined under different criteria and did not require the same assessment against the development plan or the Framework.
24. I acknowledge the appellant's concerns with the Council's handling of the case with regards pre-application advice and previous applications. Nonetheless, in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

25. The proposed development would not accord with the development plan as a whole and none of the other considerations considered above outweigh this finding. For the reasons given above, the appeal is dismissed, and planning permission is refused.

K. Stephens
INSPECTOR