



Appeal Decision

Site visit made on 17 May 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 10th July 2023

Appeal Ref: APP/P3040/W/22/3312958

The Stables, Moor Lane, Bunny NG11 6QX

- 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 Gallagher against the decision of Rushcliffe Borough Council.
 - The application Ref 22/00743/FUL, dated 13 April 2022, was refused by notice dated 14 June 2022.
 - The development proposed is new storey and a half agricultural store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. While it is noted on the appellant's appeal form and the decision notice that the description of the development has been changed to 'new two storey agricultural store', the documentation provided confirming agreement of this is not definitive. However, I have used this description in my consideration of the appeal and in my decision since it best describes the proposal. It does not alter the development which is the subject of this appeal.

Main Issues

3. The main issues for the appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt; and
 - 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

Whether inappropriate development

4. The appeal site is within the Green Belt and consists of an agricultural field, equestrian ménage and stable block. It incorporates four stables, tack room, a storage area for hay and garaging for a horse cart and tractor with associated hardstanding. There are also two small single storey shed type structures located to the eastern side of the stable block, and a further shed located in the south-eastern corner of the field.

5. The proposal would replace the two small sheds next to the stable block with a part single and part two storey, timber clad, L-shaped building with pitched roof.
6. Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies, dated 2019 (Local Plan) controls development in the Green Belt and this states that Green Belt policy will be determined in accordance with the Framework. Paragraph 137 of the Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
7. Paragraph 149 of the Framework sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions. The appellant contends that the proposal is for an agricultural use and therefore falls under the exception of paragraph 149(a) which has no limiting criteria and applies to buildings for agriculture and forestry.
8. The appellant advises that there has been a long history of agricultural use, through the keeping and grazing of livestock, which continues today. My site visit verified the appeal site as having a significant equestrian use element and I also observed both the keeping of horses and livestock in the nearby field. While evidence to the extent of the livestock keeping and use of the buildings in relation with this is limited, I accept that there is an agricultural use to the appeal site as defined under Section 336 of the Town and Country Planning Act 1990. I acknowledge that the existing building is used to store an agricultural field topper used for hay production which is stored in the barn element. However, this is a relatively small element of the building's use when compared with the horse box store, stables and the ménage. This shows the appeal site's predominant equestrian use over a substantial number of years.
9. Notwithstanding the development description referring to the building as being agricultural and the appellant's contention that it would be an agricultural building, within the appellant's documents, the proposal is noted as having a 'primary function to provide an area in which horses can be washed down and their general welfare maintained'. While there is reference to secure storage areas at the ground level for agricultural equipment such as the field topper, it is also detailed that this part of the building would be used to store a horse cart. It is further confirmed that the first floor would be solely used as a secure tack room. Consequently, while it is evident that the proposed building would have a multi-functional equestrian and agricultural use, its predominant use would be to support equestrian outdoor recreational use.
10. On the above basis, paragraph 149(b) applies which relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. The proposal's effect on preserving the openness of the Green Belt and it not to conflict with the purposes of including land within it therefore requires to be considered.
11. As found above, paragraph 149(a) does not apply to the proposal and as such the findings set out in the court judgement *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404* regarding consideration of 'openness' and

'special circumstances' for 'not inappropriate' development are not relevant to the appeal.

Openness

12. Openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
13. The proposal would be located on the approximate footprint of the existing two sheds which would be demolished. These buildings do have an existing effect on both spatial and visual openness. As a comparison of size, the appellant estimates that these sheds have a volume of 42 cubic metres, although 60.3 cubic metres is also noted in their statement. Due to their small size and low height their effect on openness is relatively limited. The existing landscape around the sheds creates a backdrop which hides them to a degree from public views from Moor Lane and screens them from views from the public footpath and bridleways. Overall, they are relatively discrete buildings which do not significantly add to the existing hay store and stable building.
14. In contrast, even with its footprint being similar to the two sheds, with its part two-storey height and pitched roof, the proposal would be substantially larger and a much more imposing building. The appellant estimates that the proposal would have a volume of 167 cubic metres which demonstrates the substantial size increase compared to the existing sheds. The proposal would, even with existing low landscaping, be highly visible from the public footpath and bridleways and to a lesser extent from the end of Moor Lane. While it is appreciated that high quality timber cladding and feature grey roof tiles would be used, which could be agreed through a planning condition, the materials would not reduce or soften the proposal's significant size or height.
15. Mitigation is offered by the appellant to the proposal's impact on openness by removing the existing south-eastern shed, estimated as having a volume of 70 cubic metres. However, due to this shed's small size and height and relatively distant location from the proposal, its effect on openness is not as significant as that of the proposal. Furthermore, visually the shed's small size and height, in conjunction with the surrounding landscape, does not result in as prominent or highly visible feature compared to the proposal. On this basis, the removal of the shed, through a pre-commencement planning condition, would not reduce or compensate for the proposal's impact on the openness. This spatial and visual assessment of openness of the shed takes into account recent court judgements including *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466.
16. In conclusion on openness, taking all of the above into consideration, the proposal would not preserve the openness of the Green Belt and would fail to safeguard the countryside from encroachment. It would therefore be inappropriate development in the Green Belt.

Other considerations

17. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework makes it clear at paragraph 148 that

substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

18. It is acknowledged that the proposed building is intended to provide extra facilities and deter opportunities for crime in the rural area by providing secure facilities to support the general welfare of horses and store equestrian and agricultural equipment. The appellant advises that there have been a number of break-ins in the past and that the area has seen related acts of crime. Furthermore, as a member of the appellant's family competes in dressage at national level, the secure storage is required to protect the associated expensive and specialist equipment. This aim is supported by paragraph 130 of the Framework in terms of making places safe and to ensure crime and the fear of it does not undermine the quality of life.
19. However, other than a local bulletin referring to theft at a church, little evidence has been provided to support this need at the appeal site. No police or other crime report has been submitted showing the level of crime, losses or damage that have been suffered. Furthermore, no details have been provided showing if any alternative and less intrusive options have been considered to deter crime, such as the use of alarms, security systems or secure lockers. Little detail is also provided regarding the need for the extra facilities and storage above that which is currently present on the appeal site. I therefore give the need for the proposal on this basis moderate weight in favour of it.
20. The replacement of the existing two sheds, which are in poor condition, with the proposed high standard building is submitted by the appellant as betterment for the Green Belt. However, notwithstanding that the removal of the dilapidated sheds would be a visual improvement, this would not justify a considerably larger structure, irrespective of its quality. This therefore does not weigh in favour of the proposal.
21. It is recognised that removing the south-eastern shed would provide some benefit in relation to improving the important vistas identified in the Bunny Conservation Area Appraisal and Management Plan 2009 and increasing openness. However, as indicated previously, due to the small size and height of the shed and the existing landscaping, it currently does not overly limit views or openness across the Green Belt. Neither does the shed look specifically unattractive in the landscape. I therefore give the benefit of removing the shed limited weight in favour of the proposal.
22. The appellant has raised the matter of permitted development rights that could apply to the existing building. They indicate that this is relevant at this stage in considering whether very special circumstances existed as identified in the court judgement *Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)*. They submitted that under Schedule 2, Part 6, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended) that the cubic content of the original building could be increased by more than 10%. However, no evidence has been provided to demonstrate that the appeal site would meet the relevant GPDO's limitations and conditions or that the 10% increase noted would be equivalent to the proposal's volume. There is also little evidence to demonstrate that the permitted development right would be directly comparable to the proposal. There is therefore little

evidence before me to indicate that there is a real possibility that this permitted development right would, in fact, be adopted should the appeal fail. I therefore attribute little weight to the use of permitted development rights should the appeal fail. Accordingly, this does not weigh in favour of the proposal.

23. Furthermore, the appellant raises the application of paragraph 149(c) which relates to extension or alteration of a building. They advise that this could apply and the shortfall in volumetric space would be proportionate. They refer to the court judgement *Sevenoaks DC v SSE & Dawe [1997]* which identified that extensions are not necessarily confined to physically attached structures. However, little supporting evidence, including demonstration that the proposal would be a proportionate addition, has been provided. While there are similarities in terms of use, the proposal, with its two-storey element, timber construction and pitched roof, would not resemble or relate well to the original building. The proposal would appear to be a distinct and separate building which would not be representative of an extension or alteration to the original building. The proposal would therefore not meet paragraph 149(c) and this does not weigh in favour of the proposal.
24. The application site lies near to the Bunny Conservation Area (CA) and the effect of the proposal on the character and appearance of the CA was not raised as a reason for refusal by the Council. I have considered the impact the proposal would have on the setting and significance of this designated heritage asset. It is evident that CA encompasses predominantly the suburban area of the village which has social, historical and architectural interest and uses traditional materials. With the separation and general screening that exists to the CA boundary from buildings, landscaping and fencing, the proposal would not harm the setting or significance of this designated heritage asset. However, the avoidance of harm in this regard weighs neutrally and does not amount to a consideration in support of the proposal.
25. Although there would be compliance with some parts of the development plan the proposal would be in conflict with the development plan, when read as a whole. On the evidence before me the development plan should be regarded as being up to date and the proposal would not therefore be sustainable development in accordance with paragraph 11(c) of the Framework. This therefore does not weigh in favour of the proposal.

Whether very special circumstances exist

26. The proposal would cause harm to the Green Belt by reason of inappropriateness due to a reduction in openness and conflict with the purposes of including land within it. I attach substantial weight to those harms. The other considerations of the scheme do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt.
27. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would not comply with the Green Belt aims of Policy 21 of the Local Plan, or the Framework, and would be unacceptable.

Other Matters

28. Regarding the appellant's reference to court judgements *Basildon v FSS & Temple* [2004] EWHC 2759 (Admin) and *Brentwood BC v SSE* [1996] 72 P&CR 61 which relate to the assessment of 'other considerations' and 'special circumstances', I have taken these into account within the appeal.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR