



Appeal Decisions

Site visit made on 5 September 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 October 2023

Appeal Ref: APP/R3705/C/22/3305778

Old Rail Farm, Hurley Common, Hurley CV9 2LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Mr Gary Robert Stibbs against an enforcement notice issued by North Warwickshire Borough Council.
 - The notice was issued on 28 July 2022.
 - The breach of planning control as alleged in the notice is:
 - (i) Without planning permission, the change of use of the land, for the stationing of two shepherds huts for holiday accommodation, the positions[sic] of which are shown BLUE on the attached plan.
 - (ii) Without planning permission, the formation of associated walkaway, parking area and formation of visitor car park for the existing permitted holiday lets, shown cross hatched BLACK on the attached plan. (A)
 - The requirements of the notice are to:
 - (i) Cease the use of the Shepherds Huts for holiday rental/leisure purposes, shown BLUE within the land edged RED on the Notice plans.
 - (ii) Remove the Shepherds Huts shown Blue from the land edged RED including any associated utilities, fixtures, and fittings.
 - (iii) Remove from the land any hardstanding areas, to include the walkway and parking area within the land edged RED and hatched BLACK on the Notice plans.
 - (iv) Reinstate the land to its former condition and levels.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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. It is directed that the enforcement notice is corrected by:
 - In section 5.(i), delete the words "rental/leisure purposes." and substitute with "accommodation."
2. Subject to the correction, 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.

The Enforcement Notice

3. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of an enforcement notice provided that it would not result in injustice to the parties.
4. Replacing the words "rental/leisure purposes" with "accommodation" in the requirements of section 5.(i) of the notice, reflects the breach of planning control described in section 3.(i).

5. Given the limited extent of the correction which aligns the requirements of the notice with the breach of planning control, I am satisfied that no injustice to the appellant or the Council would arise by me correcting the notice in terms I have set out in paragraph one above. I have therefore done so using the powers available to me under Section 176(1) of the Act.

Appeal on ground (a)

6. The ground of appeal is that planning permission should be granted for the change of use of land for the stationing of two shepherd huts for holiday accommodation and the formation of associated walkaway, parking area and formation of visitor car park.

Main issues

7. The main issues are:
- i) Whether the development is inappropriate development in the Green Belt;
 - ii) The effect of the development on highway safety with regards to access; and
 - iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the developments.

Reasons

Whether inappropriate development

8. Policy LP3 of the North Warwickshire Local Plan 2021 (NWLP) relates to development in the Green Belt. Paragraph 150(b) and 150(e) of the National Planning Policy Framework (the Framework) states that engineering operations and the material change in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) are not inappropriate forms of development in the Green Belt provided they preserve its openness.
9. Holiday accommodation or tourism facilities are not specifically stated in paragraph 150(e) of the Framework. The material change of use of the land is not for outdoor recreational use and therefore the use as described in the notice is inappropriate development in the Green Belt.
10. Visual impacts form part of the concept of openness of the Green Belt. The formation of hardstanding is dark in colour with minimal changes to the ground level. The hardstanding areas given its colour is noticeable and a significant contrast from the green fields that surround these hardstanding areas. The hardstanding areas are prominent within the landscape and do not integrate well within the surrounding area. Along with the permanence of the hardstanding areas, the bulk form of the shepherd's hut, whilst only present for certain times of the year, do not preserve openness in the area. In visual terms, the hardstanding areas and the shepherd's huts do not preserve the openness of the Green Belt and is inappropriate development as described in paragraph 150 of the Framework.

11. The appellant refers to the areas of hardstanding associated with the agricultural use. The areas of hardstanding subject of the notice and identified specifically as being the hatched black areas on the notice plan are not comparable to the hardstanding next to the agricultural buildings given they are not in close proximity to each other.
12. The shepherd's huts are wheeled units that can be disconnected from the services with the intention that they are removed from site between 1 November and 31 March. The appellant consider that they fall under the definition of a caravan. Nevertheless, as discussed above, the hardstanding areas would be permanent and the shepherd's huts would be visible for some 7 months of the year, and they do not preserve the openness of the Green Belt.
13. The development described in the notice is inappropriate development in the Green Belt and as such conflicts with Policy LP3 of the NWLP and the Framework which seeks to safeguard the Green Belt from inappropriate development and impacts on openness.

Highway safety

14. The appeal site is accessed from a single vehicle width track, with some passing places, that leads to Hurley Common Road that has a 40 miles per hour (mph) speed limit. The single width track is also used to access a Severn Trent Water Facility, a Ministry of Defence shooting range and the properties of 31, 33 and 33a Hurley Common.
15. Visibility from the junction with the Hurley Common Road is restricted, particularly southbound, and I note that submitted data suggests average vehicle speeds along Hurley Common Road are within the speed limit. It has been indicated that the holiday accommodation would potentially generate two to four movements per day. Whilst the Council question the daily vehicle movements, given the scale and nature of the development, I am satisfied that vehicle movements would not be frequent.
16. The single vehicle width of the access road may lead to occasions with vehicles meeting unable to pass each other therefore requiring unusual manoeuvres on the access. There are passing places on the access road and given the type of vehicles associated with the holiday accommodation along with the limited amount of vehicle movements associated with the development, I consider the amount of times vehicles would meet on the access unable to pass each other would not be frequent. Should pedestrians wish to visit the site, due to the narrow width of the access road and lack of formal footpath, there could be conflict should vehicles wish to pass any pedestrians along the access. Given the type of development, I would expect these types of occasions to be low.
17. Due to scale and nature of the development and the low frequency of vehicle movements associated with the development, it would not severely harm the safety of highway users.
18. The development does not harm highway safety, particularly with regards to the access. It accords with Policy LP13 of the NWLP and the Framework which seeks development to not cause an unacceptable adverse impact to the safe and free movement of pedestrian, vehicular or other traffic.

Other considerations

19. The appellant describes that the holiday accommodation assists with the diversification of the rural economy, bringing benefits to the local economy and increasing the potential for local employment.

Conclusion

20. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
21. Other considerations have been identified some of which can be described as benefits and given the scale of the development, I attribute minimal weight to these benefits. I have also found that highway safety would not be harmed and I attribute neutral weight to this matter. These matters would not clearly outweigh the harm that I have identified above, particularly given the importance the government gives to the protection of the Green Belt as reflected in the Framework.
22. For the reasons outlined above, therefore, other considerations do not clearly outweigh the harm to the Green Belt and any other harm. Consequently, the very special circumstances needed to justify the development do not exist. The development is contrary to the relevant development plan policies and the Framework as a whole.
23. I therefore conclude that the appeal on ground (a) fails.

Appeal on ground (g)

24. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. In the notice, the time to comply with the requirements is three months.
25. The appellant is seeking the time compliance to be changed to six months as three months is not sufficient period to organise alternative accommodation for any bookings that may have been made for the holiday accommodation. There is, however, a lack of convincing evidence identifying any future bookings for the holiday accommodation. I consider a three month period to comply with these requirements does not fall short of what is reasonable.
26. The appeal on ground (g) therefore fails.

Chris Baxter

INSPECTOR