



Appeal Decision

Site visit made on 31 October 2023

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/K3415/W/23/3321928

Agricultural Building off London Road, Canwell, Sutton Coldfield B75 5SD

- 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 Ian Felton (BT Felton and Sons) against Lichfield District Council.
 - The application Ref 22/01631/COU, is dated 24 November 2022.
 - The development proposed is change of use of existing dutch barn to storage/distribution with ancillary office space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
 - The effect of the proposal on highway safety.
 - Whether the proposal is in a sustainable location, with regard to modes of transport.

Reasons

Whether inappropriate development

3. The appeal site comprises an agricultural building of 'Dutch Barn' design. The structure is currently enclosed on three sides and consists of various external coverings, the steel frame and roof which is clad in metal sheeting. The proposal seeks to convert the barn into a storage/distribution structure with ancillary office space.

4. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of several exceptions.
5. Paragraph 150 of the Framework details certain other forms of development which are not inappropriate in the Green Belt. The appellants consider the proposal would fall under paragraph 150(d). This involves the re-use of buildings, provided that the buildings are of permanent and substantial construction. The exceptions under paragraph 150 are subject to additional requirements, whereby development is not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
6. The planning application was supplemented by a structural report on the condition of the barn (HWA Structural Engineers Ltd) which advises the building is stable and in relatively good condition.
7. However, the report makes clear that the internal inspection was carried with parts of the building which were covered, unexposed or inaccessible at the time not assessed of the survey cannot be guaranteed to be free from defect. Similar limitations are identified with regards to the foundations.
8. Moreover, it is advised that the structure has no floor, there is considerable surface erosion to existing steelwork, some steels and blockwork would need to be replaced, and the roof comprises corrugated cement boards, which are likely to contain asbestos. Plans indicate a first-floor storage area, which would also require reinforcing.
9. Substantial construction is not defined in the Framework and is inevitably a matter of planning judgement. Although the survey concludes that the building is in relatively good condition, it is clear that a proportion of the barn is in need of repair and stabilising, as well as the re-roof if asbestos is found.
10. Based on the above, this leads me to conclude that the building is not of substantial construction and that proposal would not meet the exception outlined in paragraph 150(d) of the Framework. The proposal would therefore constitute inappropriate development in the Green Belt.
11. In accordance with paragraph 147 of the Framework, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

12. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The assessment of openness includes consideration of both visual and spatial aspects. The proposal would see an increase in the comings and goings from the individual building, storage and distribution usage would be expected to generate additional vehicle and pedestrian movement, and the addition of vehicle parking space gives an indication of the same. This would reduce openness spatially.

13. Although spatially and visually I agree that the harm to openness would be limited in the context of the whole Green Belt, the Framework is clear in paragraph 148 that substantial weight is given to any harm to the Green Belt.

Other Considerations

14. The Framework states in paragraph 148 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.
15. Although the potential benefits such as small scale employment have been raised, this would not outweigh the harm to the Green Belt as identified and can be assigned little weight in favour of the proposal.

Highway safety

16. On this matter, I would concur with my fellow Inspector, who dealt with another recent appeal on this site. Vehicular speed limits around the vicinity of the site are high, and footways appear to be unlit, with potential difficulty for pedestrian users to negotiate the location. In general, facilities for pedestrian and cycle users are lacking, whilst there is a lack of segregated pedestrian facilities within the site, and it is likely that vehicle movements around the site would increase if this proposal were to go ahead.
17. The appellant has indicated that they would be willing to adhere to any conditions to deal with this issue, but given the current vehicle/pedestrian conditions, and lack of formal arrangements proposed I have no evidence to prove that any form of scheme could alleviate this issue, and the continued objection of the Highway Authority further strengthens the concerns I have regarding this approach.
18. I therefore find that it has not been adequately demonstrated that the proposed development would be acceptable in highway and pedestrian safety terms. The development would therefore conflict with Core Policy 5 and Policy ST1 of the Lichfield District Local Plan Strategy (2015) (the LP) which seek, amongst other matters, to ensure that development proposals take account of and improve highway safety. The proposal would also conflict with guidance contained within paragraph 110 of the Framework, which seeks to ensure that developments provide safe and suitable access to the site for all users.

Sustainability

19. The site is located outside any settlement boundaries and is therefore considered to be in the countryside. Core Policy 5 of the LP seeks to improve accessibility and transport choice by ensuring that all new development is well served by an attractive choice of transport modes, including public transport, footpaths, and cycle routes to promote alternatives to the use of the private car. Policy ST1 of the LP similarly seeks to secure more sustainable travel patterns by achieving a number of aims including only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area.
20. Whilst I acknowledge that the appeal site would have a similar level of accessibility to services and facilities, I must take into consideration that the proposal does not include a residential element, but, regardless of this, there

are limited services and facilities nearby and that the appeal site is not well served by significant transport options other than private vehicle.

21. From the evidence provided, the nearest bus stop is approximately 1.3km from the appeal site on the A453 at Bassetts Pole. Access to the bus stop would for much of its length be along a single footpath on one side of a main road subject to the national speed limit with no street lighting. I therefore do not consider it would represent a particularly viable option for employees or visitors, particularly during inclement weather or after dark.
22. As such, I find that there would be little alternative modes of transport available, and employees and visitors would be heavily reliant on the private vehicle to access and leave the site during working hours
23. The appellant has referred to a number of appeals that they feel are similar in nature to the sustainability issue. However, I do not have full details of these appeals or their context so I cannot draw comparison to them. Regardless, I must also deal with this appeal on its own merits.
24. For the reasons set out above the proposed development would not be in a suitable location having regard to the relevant policies which seek to manage and control the location of new development in the interests of good access to services and sustainable modes of transport. The proposal would therefore conflict with Policy ST1 and Core Strategy 5 of the LP, the aims of which I have set out above.

Conclusion

25. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be 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.
26. The other considerations do not clearly outweigh the substantial weight that I have given to the harm that would be caused to the Green Belt, by reason of inappropriateness, including openness. Consequently, the very special circumstances necessary to justify the development do not exist.
27. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR