



Appeal Decision

Site visit made on 9 January 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/L3625/W/23/3321895

Duxhurst Farm, Duxhurst Lane, Sidlow RH2 8QQ

- 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 D Beasley against the decision of Reigate and Banstead Borough Council.
 - The application Ref 23/00387/RET, dated 22 February 2023, was refused by notice dated 2 May 2023.
 - The development proposed is described as proposed retention of barn for agricultural purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. At the time of my site visit I observed the building to be substantially constructed.
4. The description of development implies that the proposal is for the re-use of an existing building, and it is indicated that the works undertaken may constitute repair and maintenance. It is not for me, under a section 78 appeal, to determine whether or not that use is lawful. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Act regardless of the outcome of the appeal. However, as the appeal relates to an application for planning permission for a new building, I have determined the appeal on that basis.

Main Issues

5. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt; and

- iii) 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 the proposal would be inappropriate development in the Green Belt

6. Policy CS3 of the Reigate and Banstead Local Plan: Core Strategy 2014 (Core Strategy) states that planning permission will not be granted for inappropriate development in the Green Belt unless very special circumstances clearly outweigh the potential harm to the Green Belt. Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The Framework outlines that the construction of new buildings, other than in connection with a limited number of specific exceptions, should be regarded as inappropriate in the Green Belt (paragraph 154).
7. Policies NHE5 and NHE6 of the Reigate and Banstead Development Management Plan 2019 (DMP) are both supportive of development within the Green Belt in certain circumstances, including the re-use and adaptation of buildings in the Green Belt. Whilst the DMP is silent on agricultural development, the Framework sets out that amongst others, exceptions include agricultural development or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land.
8. The appeal site comprises a two-storey pitched roof building. Its external finish is of brick and wooden cladding under a tiled roof. The building is surrounded by a relatively small parcel of land, which is flat, laid to grass and bound by a post and rail fence.
9. The appellant states that the proposal is for the purpose of agriculture and therefore complies with the list of exceptions set out in the Framework. The appellant goes on to state that two local farmers have expressed an interest in the use of the barn for agricultural purposes for the storage of machinery, plant and fencing materials for the maintenance of agricultural land. However, limited evidence is before me to substantiate this. When considering whether or not the building would be for agricultural use it is logical and reasonable that there is a need for the agricultural building rather than building speculatively. I note that the appellant would be willing to agree to a planning condition limiting the use to agriculture. However, having regard to Planning Practice Guidance it would not be reasonable or necessary to limit the use by way of planning condition. In any event, planning permission would be required for any change of use. Accordingly, I am not satisfied that the appellant has demonstrated that the proposal is required for the purposes of agriculture and therefore the proposal would not meet the exception listed in Paragraph 154 a) of the Framework.
10. The appellant states that the site has previously been occupied by a barn latterly used for agriculture and regards the appeal site as previously developed land. That is defined in the Framework to exclude land that is or was last occupied by agricultural or forestry buildings. Consequently, based on the

evidence before me, the proposal does not fall within the parameters of criterion g) of paragraph 154 of the Framework.

11. Accordingly, the proposal would comprise inappropriate development in the Green Belt, which is by definition harmful. I attach substantial weight to the harm to the Green Belt.
12. For the reasons stated above, the proposal would conflict with Policy CS3 of the Core Strategy, Policies NHE5 and NHE6 of the DMP and the Framework which only support development in the Green Belt in a limited number of circumstances.

Effect on Openness

13. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development, and it has both spatial and visual aspects.
14. Photographic evidence shows that the previous building was in a state of ruin. From the limited evidence before me the proposal would have a notably greater visual impact on the Green Belt than the previous structure due to the increased volume. The proposal would therefore result in some additional spatial loss of the Green Belt.
15. The nearby Duxhurst Lane carries the route of a public footpath, and the proposal would be positioned near to a cluster of existing barns and residential dwellings. Visually the proposal would be highly visible from these localised views. I appreciate that wider views of the proposal would be limited due to existing built development and landscaping beyond the appeal site.
16. Landscaping may, over time, obscure views of the building to some extent. In any event maintaining and/or enhancing landscaping would not be sufficient to mitigate either the spatial or visual loss of openness.
17. For the reasons stated above, I conclude that the proposal would result in both a visual and spatial loss of openness of the Green Belt.

Other Considerations

18. The Framework states 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.
19. The appellant states that the design would not harm the character or appearance of the area and that, as set out in the Heritage Building Assessment, the proposal would salvage, and re-use to some degree, the fabric of a former building.
20. Whilst the appellant argues the proposal would be a sustainable form of development the economic, social and environmental benefits are not clearly set out. The re-use of the fabric of a former building would have some environmental benefit, however, given the scale of the proposal the benefit would be limited. Furthermore, it is difficult to establish the extent of the economic, social and environmental benefits arising from the proposal without further evidence of who would occupy the building.

Other Matters

21. In relation to living conditions, the proposed barn would be located sufficiently far away from neighbouring dwellings for outlook, privacy and levels of natural light not to be adversely affected. The design and external appearance of the barn would be in-keeping with the immediate site context. The external finish of the building could be conditioned if I were to allow the appeal. However, a lack of harm in these respects are neutral factors in the determination of this appeal.
22. I have been referred to the Council's decision to grant planning permission for the development of other buildings nearby. However, I have not been provided with the full details of the schemes, and so cannot draw any meaningful comparisons. I have also considered the appeal decision¹ submitted by the appellant. Based on the limited evidence before me, the description of development and the locational context differ, and therefore I do not consider the scheme to be comparable to the appeal before me. In any event, I have determined the appeal on its own merits.
23. A lack of objection from nearby residents to the proposal is a neutral factor in the planning balance rather than of benefit.
24. Any concerns regarding the processing of the planning application fall outside of the remit of this decision.

Green Belt Balance and Conclusion

25. The proposal would be inappropriate development in the Green Belt and would harm its openness. These matters attract substantial weight.
26. The appellant suggests that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, which reflects paragraph 11d ii) of the Framework. However, that would only apply where development plan policies are out of date and policies in the Framework that protect assets of particular importance, such as the Green Belt, would not provide a clear reason for refusing the development proposed. Given my findings above, the proposal would conflict with development plan policies and Framework policies relating to the Green Belt.
27. Consequently, in my view, the totality of the harm identified would not be outweighed by any other considerations such that the very special circumstances required to justify the proposal have not been demonstrated.
28. The proposal would conflict with the development plan and material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

R. Gee

INSPECTOR

¹ APP/C1625/C/21/3286145