



Appeal Decision

Site visit made on 14 February 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/K3415/W/23/3326488

Lamb Farm Barns, London Road, Canwell, Sutton Coldfield, Staffordshire B75 5SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ian Felton of BT Felton and Sons Limited against the decision of Lichfield District Council.
- The application Ref is 23/00215/FUL.
- The development proposed is described as the "demolition of approved Part Q building for three dwellings and replacement with the erection of three new dwellings and associated car parking arrangements at Lamb Farm, London Road, Canwell at Lamb Farm, London Road, Canwell."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated 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 Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the revised version.
3. An extant permission¹ under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the Class Q scheme) exists at the appeal site for the conversion of the appeal building into three residential units. This is referred to in the description of development as the Part Q scheme. This is a material consideration in the determination of this appeal.
4. The site has been subject to a recently dismissed appeal², which sought to demolish the existing building and erect eight dwellings (the previous appeal). This is also a material consideration in the determination of this appeal.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the Framework,

¹ Council reference: 21/01092/PND

² Appeal decision reference: APP/K3415/W/22/3308004

- the effect of the proposal on the openness of the Green Belt,
- the effect of the proposal on the significance of Lamb Farm, a non-designated heritage asset, through development within its setting,
- whether the proposed development would be in a suitable location, having regard to relevant local and national policies, with particular regard to the control of housing in the countryside and sustainable modes of transport,
- the effect of the proposal on highway and pedestrian safety, 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 or not inappropriate development

6. The Framework explains that the Government attaches great importance to Green Belts. 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 their permanence.
7. Policy NR2 of the Lichfield District Local Plan Strategy February 2015 (LPS) seeks to protect the Green Belt from inappropriate development in accordance with national planning policy. The Rural Development Supplementary Planning Document December 2015 (RDSPD) reiterates national planning policy in respect of development within the Green Belt.
8. The construction of new buildings within the Green Belt are inappropriate development with the exceptions of the types of development listed in paragraph 154 of the Framework. The appellant contends that the proposed development complies with paragraph 154 d) and g). It would only require one of the exceptions to be met for the proposal to be considered not inappropriate development.
9. Paragraph 154 d) of the Framework can allow the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Paragraph 154 g) of the Framework can allow new buildings where there would be, among other things, limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
10. Both paragraph 154 d) and g) require an assessment of the existing use of the building and its associated land. In this regard, the appellant contends the Class Q scheme has been implemented. However, there is very little substantive evidence relating to this matter and the lawful use of land or buildings is not a matter for determination as part of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act). In this regard, it is open to the appellants to apply to have this matter determined under section 191 of the Act.
11. Notwithstanding this, the appeal site is in a rural location and sits between a group of brick and tile barns, which have been converted to residential units, and an agricultural building of 'Dutch Barn' style. The appeal site comprises a

modest, single storey building, surrounded largely by land which is laid to grass. During my site visit, there was limited evidence that the site was in residential use. The planning application form describes the current use of the site as an agricultural barn and the Inspector in the previous appeal described the appeal building as an agricultural barn.

12. Therefore, having regard to the current state of the appeal building and the submitted evidence, on the balance of probabilities, the appeal site maintains an agricultural use. Land that is or was last occupied by agricultural buildings is excluded from the definition of previously development land in Annex 2 of the Framework.
13. On this basis, the existing building is in a different use to that proposed as part of the appeal scheme and does not comprise previously developed land. As such, it does not fall under the exception of paragraph 154 d) or g) of the Framework and does not comply with Policy NR2 and Core Policy 3 of the LPS, or the guidance within the RDSPD.
14. As the scheme would not meet with any of the Framework exceptions for the construction of a new building, I conclude that the proposed development would comprise inappropriate development within the Green Belt. This harm to the Green Belt is a matter to which I attach substantial weight, as required by paragraph 153 of the Framework.

Openness of the Green Belt

15. A fundamental aim of Green Belt policy, as set out in paragraph 142 of the Framework, is to prevent urban sprawl by keeping land permanently open. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects.
16. The proposed development would have a smaller footprint than that of the existing building. Although a relatively modest increase in height is proposed, the appeal scheme would, nevertheless, be taller than the existing building. The proposed building would also have a steeper roof pitch than the existing building, which would further draw attention to the proposed increase in height.
17. In addition, the height and prominence of the appeal building would be further exacerbated due to the layout of the proposed development, specifically the location, orientation and design of plot 3. This would be the most prominent part of the appeal scheme when viewed from London Road. The existing building has a gable end that faces towards London Road, whereas plot 3 would be orientated with its gable ends sited at right angles to London Road. As a result, the widest part of plot 3 would be most visible from London Road.
18. This elevation of plot 3 would have a greater bulk and mass than the existing building, as a result of the proposed increase in height and roof design. When combined with the proposed increase in height, this layout would significantly increase the visual prominence of the appeal scheme from London Road.
19. For these reasons, the appeal scheme would have a greater impact in both spatial and visual terms than the current building.

Non-Designated Heritage Asset

20. The appeal site lies adjacent to Lamb Farm, which is identified by the Council as a non-designated heritage asset (NDHA). Paragraph 209 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
21. Lamb Farm is a former farmstead that is now in residential use. It consists of a farmhouse and a small group of barns, laid out in a courtyard arrangement. Lamb Farm and the associated barns date from the 19th century and are attractive buildings of traditional design, constructed in brick with tile roofs. Although now in residential use, the barns have retained their agricultural character. It is their layout, design and agricultural character that contribute towards the significance of the NDHA.
22. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Setting is not fixed and may change as the asset and its surroundings evolve. The NDHA is visible from both the highway and the appeal site. The land surrounding the NDHA, which includes the appeal site and barn, is largely open and agricultural in character. The existing building is relatively modest in size and has a functional and agricultural appearance. While the appellant considers this building an alien feature in the context of the NDHA, it nevertheless once formed part of the farmstead and forms part of the site context.
23. This context is important for understanding the original nature and function of Lamb Farm and its associated barns. On this basis and having regard to the guidance within the Framework, the appeal site, including the building, forms part of the wider setting of the NDHA and contributes towards its significance.
24. While the proposed development has an L-shaped footprint, seeks to replicate and reflect traditional agrarian farm complexes and the design, materials and courtyard arrangement of the NDHA, the proposed development would, nevertheless, be located outside of, and some distance from, the historic courtyard arrangement of the NDHA. The appeal scheme would also result in a prominent and dominant form of development, by reason of its height, layout, design and proximity to the NDHA.
25. The introduction of an additional courtyard style development in this location would detract from and undermine the NDHA's existing historic layout. The appeal scheme would also reduce the openness and alter the character of the surrounding land. As a result, the appeal scheme would undermine the ability to understand and appreciate the original and historical significance of the NDHA.
26. For these reasons, the proposed development would harm the significance of Lamb Farm, a non-designated heritage asset, through development within its setting. This is contrary to LPS Policies CP3, CP14 and BE1, Policy BE2 of the Lichfield District Local Plan Allocations 2008-2029 Adopted 2019 (LPA) and the guidance within the Council's Historic Environment Supplementary Planning Document December 2015. Collectively, these seek, among other things, to ensure development proposals will have a positive impact on the significance of

the historic environment, protect and enhance the character and distinctiveness of the area and will not result in harm to the significance of the heritage asset or its setting. It would also be contrary to the Framework, which seeks to ensure, among other things, that development proposals have regard to the historic environment.

Suitable location

27. LPS Core Policy 1 seeks to direct growth and future development towards the most accessible and sustainable locations in accordance with the Settlement Hierarchy.
28. LPS Policy Rural 1 states that a percentage of the District's local housing growth will be provided within the Key Rural Settlements. LPS Policy Rural 2 outlines that support will be given to rural settlements which to provide small scale development to meet local needs, where this is clearly and robustly evidenced by the local community and accords with policies in the Local Plan.
29. LPS Core Policy 6 confirms that housing development will be focused upon a number of identified key urban and rural settlements. It goes on to state that in the remaining rural areas, residential development will only be permitted subject to a number of criteria.
30. The appeal site is located outside any identified settlement boundary and is therefore considered to be in the countryside. As such, it is not located within a Key Urban or Rural Settlement, or smaller village, as required by LPS Policies Policy Rural 1 and Core Policy 6. There is also very limited clear and robust evidence to demonstrate the development proposed would meet local needs, as required by LPS Policy Rural 2.
31. In rural areas outside of any identified settlement boundary, residential development will be permitted subject to the criteria listed in LPS Core Policy 6. However, the appeal site and proposed development do not comply with any of the criteria listed.
32. LPS Core Policy 5 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.
33. The Council state that the closest bus stop is approximately 1.3km from the appeal site, on the A453 at Bassets Pole, equating to a walk time of 15 minutes. Bus stops should ideally be located within a less than 5 minute walk from a site, to encourage travel by bus. Access to the bus stop would predominately be along a single footpath on one side of a main road at national speed limit, and without street lighting. This would not represent an attractive option for future occupiers to walk to the nearest bus stop, particularly during inclement weather or after dark.
34. Much of the surrounding highway network is also subject to the national speed limit and, therefore, it is highly unlikely that future occupants would choose to walk or cycle locally to services and facilities, including the Co-op and public house. As such, there are few alternative modes of transport available and future occupiers would be heavily reliant on the private car to find suitable services and facilities to support their day-to-day activities.

35. For these reasons, the proposed development would not be in a suitable location, having regard to relevant local and national policies, with particular regard to the control of housing in the countryside and sustainable modes of transport. This is contrary to LPS Policies Core Policy 1, Core Policy 6, Policy Rural 1, Policy Rural 2 and Core Policy 5, as set out above. The proposal would also be contrary to the Framework, which seeks to locate housing where it will enhance or maintain the vitality of rural communities and promote sustainable transport modes.

Highway and pedestrian safety

36. The appeal site would utilise the existing vehicular access for both vehicular and pedestrian access from London Road, which is subject to a 60mph speed limit. The surrounding road network is also subject to the same speed limit. An unlit footway lies on the same side of London Road as the appeal site.
37. The addition of three dwellings would increase movements to and from the site. Facilities for pedestrians and cycle users within the vicinity of the appeal site are lacking, including street lighting. There would also be a lack of segregated pedestrian facilities within the site. As such, it is therefore likely that the appeal scheme would exacerbate the risk of conflict between vehicles and pedestrians and cyclists, to the detriment of highway safety.
38. For these reasons, the proposed development would result in harm to highway and pedestrian safety, contrary to LPS Core Policy 5, which seeks, among other things to ensure development proposals make appropriate provisions for improving road safety. It is also contrary to paragraphs 114 to 116 of the Framework which seek to ensure developments provide safe and suitable access to the site for all users, are refused on highway grounds if there would be an unacceptable impact on highway safety and minimise the scope for conflict between pedestrians, cyclists and vehicles.

Other considerations

39. The appellant has referred to a number of legal judgments in respect of very special circumstances. These include *Vision Engineering v the Secretary of State and Guildford Borough Council* [1991], *Basildon District Council, R (on the application of) v Temple* [2004] EWHC 2759 (Admin), and *Wychavon District Council v Secretary of State and Others* [2008] EWCA Civ 692.
40. The appellant has submitted the Class Q scheme as a fallback position. I have had regard to the submitted information in respect of this issue, including the case of *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 and an appeal decision³.
41. The Class Q scheme allows for the change of use of the existing barn into three dwellings, comprising three 2-bedroom dwellings which are larger than those proposed as part of the appeal scheme. In the absence of evidence to the contrary, there is a greater than theoretical possibility that the Class Q scheme might take place as a fallback position should this appeal fail.
42. However, for significant weight to be afforded to a fallback position there needs to be not only a greater than theoretical possibility of it taking place, but also it would need to be equally or more harmful than the appeal scheme.

³ Appeal decision reference: APP/T3725/W/21/3275734

43. The Class Q scheme would introduce three dwellings to the appeal site. The two schemes, insofar as the number of dwellings to be provided, are comparable in this regard. The appeal scheme would therefore be no more harmful when compared with the Class Q scheme, in respect of the number of dwellings to be provided.
44. However, the Class Q scheme would be lower than the appeal scheme and, even having regard to the respective floor areas, it would have less visual impact on openness than the taller and more prominent proposed building in terms of Green Belt and NDHA effects. As a result, the appeal scheme would have a greater impact on the openness of the Green Belt and the setting of the NDHA than the existing building. Consequently, I afford the fallback position limited weight in the support of the appeal scheme.
45. The appellant has highlighted benefits and improvements in respect of improving the design of the building. It is intended to use more traditional roof tiles, which are reflective of the adjacent barn conversions and consistent with conditions attached to the neighbouring site, which seek to safeguard the character and appearance of the former agrarian buildings and their rural setting. The appeal scheme would incorporate efficient building methods, including a water harvesting scheme and private vehicle electricity points. The L-shaped layout would screen the associated parking spaces from public view. Having regard to the amount of development proposed, these benefits would be small and therefore have limited weight in favour of the scheme.
46. The appeal site forms part of a wider site allocated for development within the LPA under Site OR2 (Other Rural 2), which provided for a dwelling yield of seven new houses. This yield has already been exceeded following the conversion of the adjacent barns at Lamb Farm. The Class Q scheme would provide a further three dwellings. The allocation does not preclude further residential development on the site and, consequently, I afford the site's allocation moderate weight.

Conclusion

47. Paragraphs 154 and 155 of the Framework set out the general presumption against inappropriate development within the Green Belt. The Framework states that inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
48. I have concluded that the appeal scheme would be inappropriate development having an adverse effect on the openness of the Green Belt that would, by definition, harm the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
49. The proposed development would also harm the significance of the NDHA, although I find that this harm would be moderate. Given that the number of dwellings proposed would be no greater than those approved within the Class Q scheme, the harms in respect of site location and highway and pedestrian safety are neutral.

50. The fallback scheme would have limited weight as a benefit. The other benefits associated with the scheme include design improvements, use of traditional materials, incorporation of efficient building methods, an L-shaped layout and the inclusion of the site within Site OR2 (Other Rural 2). Cumulatively, these other considerations identified, having regard to the amount of development proposed, carry moderate weight in favour of the proposal.
51. As such, the substantial weight to be given to Green Belt harm, and any other harm, is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. Consequently, the very special circumstances necessary to justify the development do not exist.
52. For the above reasons, the proposal conflicts with the development plan and material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR