



Appeal Decision

Site visit made on 11 April 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2023

Appeal Ref: APP/C3430/W/22/3308742

Landywood Farm, Landywood Farm Lane, Cheslyn Hay WS6 7AS

- 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 Tom Park against the decision of South Staffordshire District Council.
 - The application Ref 22/00357/FUL, dated 1 April 2022, was refused by notice dated 12 July 2022.
 - The development proposed is 'Retention of agricultural barn (retrospective)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description appearing in the banner heading above is taken from the planning application form. A development similar to that shown on the appeal plans was substantially complete at the time of my site visit. As retention is not an act of development, I shall deal with the proposal as one under s73A of the Act for development already carried out.
3. There is some dispute between the main parties as to the uses taking place on the site. It is not for me, under a s78 appeal, to determine whether or not an alleged development or use on the site is lawful. To that end it is open to the appellant to apply for a determination under s191 or 192 of the Act. Nevertheless, for the purposes of determining this appeal, I must come to a view based on the balance of the evidence before me as a relevant consideration to the matters at hand only. For the avoidance of doubt, this view is not binding.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies
 - the effect on the openness of the Green Belt
 - whether or not the proposal affects the setting of Landywood Farmhouse, a Grade II Listed Building
 - the effect on European Protected Species

- if found to be inappropriate, 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

Green Belt

5. The Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Section 13 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. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, an exception is made in the case of buildings for agriculture and forestry. Policy GB1 of the South Stafford Council Core Strategy [2012] (the CS) restates the Framework's provisions, including the exception of agricultural buildings.
6. The building is located in a grassed field bordered by fencing, a pond and hedging. At the time of my site inspection, the wider site was used for some outside storage of materials, trailers and a tractor. Additionally, a domestic gas tank, beehives, outdoor leisure furniture and a tree swing were present. The building was being used for the storage of several small tractors, a motor vehicle and other sundry items. A separate but attached woodstore, open on one side, was located to the western extent of the barn.
7. The appellant's statement advises that the barn is used in conjunction with the maintenance of the appeal site and other land holdings elsewhere. This is supported in correspondence from 2 third parties who state that maintenance is undertaken by the appellant on separate sites.
8. However, whilst I have little doubt that the tractors could be used for agricultural purposes, the maintenance of land, or the storage of vehicles and machinery involved in agricultural (or other) contracting does not necessarily fall within the s336(1) definitional scope of 'agriculture'. This principally requires active production to be taking place on the site.
9. Given the Council's concerns as to the nature or extent of any agricultural use of the building (or lack of it), it was open to the appellant to provide additional evidence in that respect. However, if the land is used for that purpose, there is little substantive evidence to demonstrate it. Taken with the limited area of land, and its part use for storage or siting of non-agricultural items, I am not persuaded that the qualifying agricultural exemption exists.
10. I acknowledge the appellant's assertion that the design of the building has an agricultural appearance; that the extent of the hard surfaced apron about it, or the lack of formal access to it, would limit its usability for other purposes. However, I do not consider those matters to be determinative of the building's use.
11. Together with my observations on the ground, the balance of evidence does not demonstrate that the building is in agricultural use or on land used for that purpose. It does not therefore fall within the exception to Green Belt buildings stated in Paragraph 149 a) of the Framework. Furthermore, it does not fall within any of the other listed exceptions.

12. Sited in a location apart from other existing development, the presence of the building has an impact on the spatial openness of the Green Belt. Additionally, although the siting has made best use of existing boundary treatments, the building is visible in the open rural landscape. Glimpsed views can be seen through and over roadside hedging, particularly to the north-west. This results in a moderate adverse impact on the visual openness of the Green Belt and presents as an outward encroachment into otherwise previously undeveloped land. This is not contested by the appellant.
13. For the reasons set out above, I conclude that the development constitutes inappropriate development within the Green Belt. It erodes its openness and conflicts with one of the purposes of including land in the Green Belt. As such, it is contrary to Policies GB1 and EQ4 of the CS which seek the aforesaid aims. For similar reasons, the development does not fall within the exceptions outlined in the Framework.

Setting of a Listed Building

14. In addition to the grassed field, the site includes the original farmstead area consisting of a range of traditional agricultural buildings and the farmhouse set about a central courtyard area. The various buildings have seen some extension and in 2013 the redundant buildings benefitted from planning permission for their use for residential purposes.
15. The Grade II Listed farmhouse, dating from the early C16 with later additions and alterations, is noted for its age, construction and architectural detailing. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building (LB) or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
16. There is no dispute between the main parties that the building, being set apart from the original group, does not have a direct effect on the LB. The setting of the heritage asset, however, derives from its historic function in association with the surrounding open rural landscape. It appears isolated from the more densely developed clusters of residential development nearby.
17. Although the barn is not typical of modern agricultural buildings, the simple form, scale, and external materials define it as distinct from the development in the nearby urban areas. Notwithstanding my finding in relation to its use, it appears apposite within its rural context.
18. However, despite its appearance and the intervening distances, the sizable building will have brought about a considerable change in the previous largely undeveloped outlook enjoyed from a main aspect of the historic core of the LB and a converted curtilage building. The prominent position has failed to respect the characteristic traditional farmstead arrangement of closely clustered buildings.
19. Consistent with the appellant's own heritage assessment, I find this incursion into the farmhouse's setting causes no greater than less than substantial harm within the context of Paragraph 202 of the Framework. However, less than substantial harm does not equate to a less than substantial planning objection.

20. Paragraph 202 of the Framework identifies that where less than substantial harm to the significance of a designated heritage asset occurs, this harm should be weighed against the public benefits of the proposal.
21. In support of the development, the appellant asserts that the setting of the LB would be enhanced by the maintenance of land about it. This would arise from facilitating the storage of the machinery required to achieve it. However, there is little to demonstrate that this could not be achieved by less impactful means. Furthermore, there is no proposed mechanism to secure that benefit for the lifetime of the development. I therefore find it a benefit of limited weight.
22. It is also contested that the maintenance of other farmland elsewhere would also give rise to public benefits. However, as maintenance of private land, I do not find this to constitute such a benefit.
23. For the above reasons, I find the development does not preserve the setting of the designated heritage asset. The public benefits arising from the building do not outweigh the less than substantial harm. The development thereby conflicts with Policy EQ3 of the CS and the Framework as they seek to sustain or enhance the significance of heritage assets, including their settings.

European Protected Species

24. According to the Council the site is located in a 'red impact risk zone' for Great Crested Newts. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) imposes a duty on me to have regard to the likelihood of European Protected Species being present and affected by the proposal. However, as the development has taken place and there is limited evidence that it has caused harm to the protected species or its habitat, I am unable to attribute weight to this matter.
25. If a breach of the Regulations took place as a result of the development, this is now a matter for the relevant enforcing body.

Other Considerations

26. Subject to some proposed conditions, there were no significant objections from statutory consultees, including in relation to highway matters. However, as responses in relation to requirements in the development plan, these are not benefits of the development.
27. I acknowledge the appellant's assertion that a similar proposal could be constructed under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, under its terms, new buildings reasonably necessary for the purposes of agriculture require a minimum holding area of 5ha. Pursuant to the appellant's confirmation that the site only extends to 0.5ha., it is not therefore a viable proposition. Accordingly, this is a fallback position of negligible weight in the context of the evidence provided.
28. The appellant contests that it was open to the Council to impose a condition restricting the building's use to one of agriculture. As I have found that there is little evidence of that use taking place, to subsequently require it would not pass the test of reasonableness as set out in Paragraph 56 of the Framework.

29. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to its decision. However, this is not a matter for this appeal.

Other Matters

30. I recognise the third-party representations referencing previous development at or near the site. As concerns relating development outside the scope of this appeal, these are matters of negligible weight.

Conclusion

31. The building is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The building also causes harm to the openness of the Green Belt and the setting of the Listed Building.

32. Notwithstanding my neutral finding on the matter of the development's effect on protected species, this, or the other considerations presented by the appellant, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to Policies GB1, EQ3 and EQ4 of the CS and the Framework.

33. For those reasons, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR