
Appeal Decision

Site visit made on 9 August 2016

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 September 2016

Appeal Ref: APP/T4210/W/16/3151468

Twine Valley Farm, Off Church Road, Shuttleworth

- 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 James Brown (SR and JR Brown Ltd.) against the decision of Bury Metropolitan Borough Council.
 - The application Ref 59947, dated 1 April 2016, was refused by notice dated 26 May 2016.
 - The development proposed is agricultural building for housing livestock.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal is retrospective as it refers to a building ("the building") that has already been constructed.
3. There is a deemed consent to carry out an agricultural development complying with the limitations and conditions provided in Part 6 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The building that has been erected on the site is in the same location, however, it is different in size and design from that approved and the proposal is for a different use, that is for housing livestock as opposed to the storage of the hay crop. Consequently, the appellant accepts that the building requires planning permission and his case in this appeal is based to some extent on the consideration that the Council has accepted that a very similar building to that constructed can be built on the site, albeit not for the housing of livestock. I will determine the appeal on this basis.

Main Issues

4. The appeal site is within the Green Belt. Consequently, I consider the main issues to be firstly, whether or not the appeal building constitutes inappropriate development for the purposes of local and national planning policy; secondly, the effects of the building's use on the living conditions of the occupants of Millhouse Street in terms of noise and disturbance ; thirdly, the effects of the building on the character and appearance of the surrounding Special Landscape Area; and fourthly, the proposal's effects on ground water contamination.
-

Reasons

Whether or not inappropriate development

5. The building is situated within the Green Belt, on a site elevated above Bamford Road and Church Road on a steeply sloping field. The appeal site is part of a wider open terrain of steep hills scattered with farm buildings, and short roadside terraces of dwellings at lower levels. The building is a large structure of an agricultural character that presents a blank elevation of concrete panels and Yorkshire boarding to Bamford Road, with a roof of corrugated sheeting. The building is open on the elevation facing the field, and at each of the corners on that side. It is sited immediately above a complex of other agricultural structures of similar materials and scales that hug Bamford Road more tightly. Whilst the proposed use of the building is for housing cattle, at the time of my site visit agricultural machinery and related paraphernalia were being stored within it.
6. The National Planning Policy Framework ("the Framework") states that the Government attaches great importance to Green Belts. Paragraph 89 makes it clear that the "construction of new buildings [is] inappropriate in Green Belt". However, there are exceptions to this, which include, amongst other things buildings for agriculture and forestry.
7. The use of the building for agricultural purposes is not a matter of dispute between the parties. Furthermore, the Framework sets no limits on the scale of such a building, or requires evidence of its necessity. Unlike some other development types stated in paragraph 89 and 90 of the Framework, the effects of agricultural buildings on the openness or purposes of the Green Belt are not relevant to a consideration of whether or not they are inappropriate.
8. Consequently, for the purposes of the Framework, the appeal building does not constitute inappropriate development. As it is one of the exceptions given in paragraph 89 it does not therefore have a harmful effect on the openness or purposes of the Green Belt. In this regard also the appeal scheme would not conflict with OL1/2 of the Bury Unitary Development Plan (adopted August 1997) ("the UDP").

Living Conditions

9. The building is located within 400m of dwellings, indeed several of which, including those on Millhouse Street are well within a radius of 200m. Thus its proposed use for livestock housing would be outside of the parameters of the permitted development right for agricultural buildings given in the GPDO. Consequently, the scheme that received deemed consent is only of limited relevance in the assessment of any noise and disturbance caused by cattle housed within the appeal property.
10. I saw at my site visit that other existing open sided large agricultural buildings are closer to the edge of the highway and residential properties than the appeal proposal. At my site visit I did not see any livestock housed within these buildings. However, I am mindful of the comments of the National Farmers Union ("NFU") and the appellant concerning the use of these buildings, and I am therefore persuaded that they could be a source of noise. However, the scale of the appeal building and the amount of cattle it could accommodate would be likely to exacerbate the noise environment to a significant degree.

Due to the building's elevated siting, and lack of intervening structures or significant belts of planting between it and Millhouse Street, I consider that the additional noise created by cattle in the appeal building would be of significant harm to the living conditions of the occupiers of these dwellings. As the corner of the building adjacent to Millhouse Street is open, I do not consider that the orientation of the long open elevation towards the open field would soften these significantly harmful effects.

11. Whilst the use of Twine Farm for livestock is long established, and I concur with the response of the NFU that within a rural environment the sound of cattle would not be an unusual feature, the concentrated nature of the noise created by cattle housed in the building, in such close proximity to dwellings would be likely to be significantly in excess of the background sound of the surrounding environment. This is one of the reasons that the GPDO restricts the permitted development right for buildings to house livestock to sites over 400m from dwellings.
12. I note that the location chosen for the appeal property is dictated to a substantial degree by the landform of the field within which it sits. I am also mindful that economic conditions have changed the nature of the farm's cattle-rearing activities to some extent leading to a requirement for additional livestock housing. However, I am not persuaded that a location more sensitive to the living conditions of adjacent residents could not be provided elsewhere within the landholding.
13. I am aware that the appellant and his family occupies the closest dwelling to the appeal building and does not consider its use for livestock housing to be of detriment to their living conditions. I am also cognisant of the comparatively few objections that mention the noise of cattle as opposed to other sources of noise and disturbance. However, the proposed use of the appeal building, due to its adjacency to Millhouse Street, and its potential to create significant noise and disturbance from the cattle housed within it would be of material harm to the living conditions of that street's occupiers. For these reasons the proposal would conflict with Policies OL4/5, EN1/2 and EN7/2 of the UDP; and the Framework. Taken together, and amongst other matters, these policies seek to ensure that new developments secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

14. The building sits within a Special Landscape Area. It occupies a prominent position within the immediate environs and due to its scale, bulk, and the colour of the materials employed in its construction is a visually intrusive and dominant feature in the context of the largely open surrounding landscape and its generally scattered buildings of more sympathetic scales and facing materials.
15. Whilst the proposal that received deemed consent would be of a slightly lower ridge and eaves height, and would not include the open side facing the field, as in the appeal property, similar materials would be employed in its construction. Whilst the use of the proposal that received deemed consent would not be for the housing of livestock, its visual effects would be similar to the existing property at the appeal site. In fact, due to its more substantial elevational treatments that lacked the open side and corners it would have more bulk, and be more visually intrusive from some viewpoints.

16. Consequently, the visual effects of the building do not result in more significant harm to the character and appearance of the Special Landscape Area than those of the scheme that received deemed consent. For these reasons, whilst I detect some conflict with the objectives of Policies OL4/5, EN1/2 and EN 9/1 of the UDP and the Council's *Development Control Policy Guidance Note 8 New Buildings and Associated Development in the Green Belt* (adopted January 2007), this conflict would be outweighed by the lack of significant harm over and above that of the proposal which received deemed consent.

Ground water contamination

17. The appellant submitted no details with the planning application to suggest how the development of the appeal building would address the risk of ground water contamination. Whilst this means that the appeal scheme is at odds with the objectives of Policies EN7/4 and EN7/5 of the UDP I am persuaded that a suitably worded condition could address these concerns. Consequently, I do not consider that this matter constitutes a reason for refusal for the scheme.

Conclusion

18. I have found that in terms of the Green Belt the building would not be inappropriate, and that the building is not of more material harm to the character and appearance of the area than the scheme which benefits from deemed consent would be. Moreover, I consider that the deficiencies of the scheme in terms of ground water contamination could be controlled by a suitably worded condition.
19. However, the proposed use of the building would be a source of considerable noise that would result in material harm to the living conditions of the occupiers of the adjacent dwellings on Millhouse Street. In this regard, the scheme would conflict with the relevant policies of the development plan insofar as they have been brought to my attention. I attach substantial weight to this harm which, in the overall planning balance, outweighs my findings in respect of the Green Belt, character and appearance of the area and ground water contamination. Consequently, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR