



Appeal Decision

Site visit made on 5 January 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26th January 2024

Appeal Ref: APP/R0335/W/23/3321872

Land at Malt Hill Farm, Malt Hill, Warfield RG42 6JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr H Byrne against the decision of Bracknell Forest Borough Council.
 - The application Ref 22/00515/FUL, dated 17 June 2022, was approved on 16 December 2022 and planning permission was granted subject to conditions.
 - The development permitted is the proposed erection of agricultural livestock barn.
 - The condition in dispute is No 4 which states that: The building hereby permitted shall be used only for the purposes of agriculture. Where the building hereby permitted ceases to be used for the purposes necessary for agriculture, the building shall be demolished and removed from the land within 12 months of the cessation of the agricultural use and the land restored with topsoil made to be level with adjacent land and seeded with grass.
 - The reason given for the condition is: To protect the character and appearance of the Green Belt and avoid the proliferation of buildings in a countryside area for which there is not a continuing need.
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Decision

1. The appeal is allowed and the planning permission Ref 22/00515/FUL for proposed erection of agricultural livestock barn at Land at Malt Hill Farm, Malt Hill, Warfield, RG42 6JQ granted on 16 December 2022 by Bracknell Forest Borough Council, is varied by deleting condition No 4.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration to this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Background and Main Issues

3. Planning permission has been granted for the erection of an agricultural livestock barn. I observed at the site visit that the development has been largely completed.
4. The appellant seeks to remove Condition 4 (the disputed condition) which sets out that the building shall be used only for the purposes of agriculture and that where the building ceases to be used for the purposes necessary for agriculture, the building shall be demolished and removed from the land

within 12 months of the cessation of the agricultural use and the land restored with topsoil made to be level with adjacent land and seeded with grass.

5. The main issues are whether the retention of disputed condition 4 is necessary or reasonable having regard to:
 - The effect of the development on the Green Belt, including openness and the other purposes of including land within it; and
 - The effect of the development on the character and appearance of the area.

Reasons

Green Belt

6. The appeal site is located within the Green Belt and forms part of a larger landholding which comprises commercially managed pastureland grazed by livestock along with some managed woodland. The appeal property is located adjacent to another larger agricultural barn and the appeal site is surrounded by open farmland.
7. Among other things, saved Policy GB1 of the Bracknell Forest Borough Local Plan 2002 (BFBLP) indicates that approval will not normally be given, except in very special circumstances for any new building in the Green Belt, unless it is acceptable in scale, form, effect, character and siting and is for one of a number of purposes, including buildings for agriculture or forestry. Policy CS9 of the Core Strategy Development Plan Document adopted in February 2008 (CSDPD) sets out that the Green Belt will be protected from inappropriate development. Both policies are generally consistent with the Framework, but given their age relative to the most up to date version of the Framework, I necessarily consider the proposal relative to the Framework in so far as it is relevant to it.
8. Paragraph 154 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless it falls within certain listed exceptions. The listed exceptions include at sub-paragraph a), buildings for agriculture and forestry. The Council granted planning permission for the building subject to this appeal on the basis that it had been designed and would be used for agricultural purposes. When taking account of the site, the development and the associated land, I have no reason to take a different view. Consequently, the agricultural building is not inappropriate development in the Green Belt as it meets the exception listed at sub-paragraph a) of paragraph 154 of the Framework.
9. The relevant exception is without qualification. The effect upon the openness of the Green Belt of such a building is, therefore, implicitly taken into account. Consequently, once the development of an agricultural building is found to be not inappropriate in the Green Belt, the impact of the building on the openness of the Green Belt or the other purposes of including land within it are not matters requiring further assessment.
10. Turning to the disputed condition, paragraph 56 of the Framework states that *"planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to*

be permitted, enforceable, precise and reasonable in all other respects". The appellant in applying for planning permission for the agricultural building clearly intended it to be permanent. However, the disputed condition imposes a restriction upon the building relating to its use that would necessitate its removal within 12 months of it not being used for agricultural purposes.

11. I have taken account of Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) as it relates to agricultural development and in particular the requirement which deals with the removal of buildings where the agricultural use has ceased under certain circumstances. Notwithstanding that the provisions are significantly different from those included in the disputed condition, this requirement in the GPDO relates solely to a situation where an agricultural building is permitted development. It therefore would not be appropriate to rigorously apply such criteria, or similarly guidance that was contained within former planning practice guidance when considering the merits of this appeal for an agricultural building in the Green Belt.
12. Further, The Planning Practice Guidance – Use of Planning Conditions (PPG) is clear that *"a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness"*.
13. It is clear that the building has been granted planning permission as an agricultural livestock barn. Such use clearly falls within the definition of agriculture and is therefore not inappropriate development within the Green Belt. Any change of use from that permitted by the planning permission would need to secure approval in the normal way and until the appeal building was used for another purpose it would remain an agricultural building even if for certain periods it was not actively used for agricultural purposes. In that context and having regard to the PPG and the Framework, it follows that the disputed condition is not reasonable or necessary to prevent harm to the Green Belt, including openness and the purposes of including land within it.
14. In reaching the above findings, I have taken account of the fact that the Council highlight that local and national planning policies can allow for changes of use of existing buildings to other uses in the Green Belt and expressed concern that residential development would have a greater impact on the openness of the Green Belt. A significant number of interested parties have objected and among other things have also expressed concern that the building would be used for some other use.
15. However, while paragraph 155 of the Framework does set out that certain other forms of development are not inappropriate in Green Belt, that is subject to the qualifications that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. For example, the re-use of buildings provided that they are of permanent and substantial construction is listed at sub-paragraph d) of paragraph 155. In that context, the Framework indicates that the re-use of a building for a purpose other than those listed in paragraph 154 of the Framework does not constitute inappropriate development and re-use does not inevitably introduce an adverse impact upon the openness of the Green Belt or harm

the other purposes of including land within it. As the interaction of paragraphs 154 and 155 in terms of re-use of buildings in the Green Belt is not time qualified, the application of the disputed condition which would require the removal of the building within 12 months of it not being used for agricultural purposes would not be a reasonable or necessary restriction in terms of paragraph 56 of the Framework.

16. The PPG is clear that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. There is no substantive evidence before me to indicate that there are considerable numbers or a proliferation of redundant agricultural buildings and former agricultural buildings in the Green Belt within the locality or elsewhere within the Borough that have an adverse impact upon its openness or the inclusion of land within it. Consequently, there is no evidence before me which justifies the restrictions imposed by the disputed condition and the exceptional circumstances for such a condition, therefore, does not exist.
17. Having regard to all of the above, I conclude that disputed condition 4 is not necessary or reasonable to ensure that the proposal would not be inappropriate development in the Green Belt or prevent harm to the openness of the Green Belt and the other purposes of including land within it, including to comply with Policy GB1 of the BFBLP, Policy CS9 of the CSDPD and the Framework in those respects.

Character and appearance

18. The Council granted planning permission for the development of the agricultural building. It therefore reasonably follows that it considered that the erection of the agricultural building and its scale and form would meet the requirements of Policy GB1 of the BFBLP, Policy CS9 of the CSDPD and the Framework in terms of its siting and appearance in the location proposed. Based upon the evidence before me, I have no reason to take a different view.
19. The agricultural building within the site does not appear out of place when viewed against the other existing agricultural barn and its surroundings. Moreover, requirements applicable to the re-use of agricultural buildings and any permitted development rights conferred to agricultural buildings in the GPDO provide adequate safeguards to prevent harm to the character and appearance of the countryside area should a use for non-agricultural purposes be sought in the future.
20. Further, as outlined above there is no evidence before me that there are considerable numbers or a proliferation of redundant agricultural buildings and former agricultural buildings within the locality or elsewhere within the Borough which have an adverse impact upon the character and appearance of the area and the countryside. Consequently, there is no substantive evidence before me which justifies the imposition of disputed condition 4 with respect to matters of character and appearance.
21. I therefore conclude that disputed condition 4 is not reasonable or necessary to make the development acceptable with regard to the effect of the development on the character and appearance of the area or to comply

with Policy GB1 of the BFBLP, Policy CS9 of the CSDPD and the Framework in that respect.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed, and I vary the planning permission by deleting disputed condition 4.

S Rawle

INSPECTOR