



Appeal Decision

Site visit made on 24 October 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/X1925/W/19/3233192

Land adjacent to Pound Farm, Bedford Road, Ickleford SG5 3XH

- 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 JB Fencing Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 19/00320/FP, dated 7 February 2019, was approved on 10 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is erection of a cattle shed together with associated hardstanding and the widening of the existing access.
 - The condition in dispute is No 3 which states that: The proposed cattle shed hereby permitted shall be used only for agricultural purposes and will not be used for any other purpose without the specific grant of planning permission. In addition, within 12 months of the first use of the cattle shed hereby permitted a scheme for its decommissioning and removal (including any hardstanding) shall be submitted to and approved by the Local Planning Authority. The decommissioning and removal scheme shall thus be observed as approved at such time that the building is no longer required for the stated purpose.
 - The reason given for the condition is: to safeguard the character and appearance of the rural area.
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Decision

1. The appeal is allowed and the planning permission Ref 19/00320/FP for erection of a cattle shed together with associated hardstanding and the widening of the existing access at Land adjacent to Pound Farm, Bedford Road, Ickleford SG5 3XH granted on 10 May 2019 by North Hertfordshire District Council, is varied by deleting condition 3 and substituting it for the following condition: The proposed cattle shed hereby permitted shall be used only for agricultural purposes and will not be used for any other purpose without the specific grant of planning permission.

Procedural Matter

2. I note the Local Plan 2011 – 2031 Proposed Submission October 2016. However, since there is no certainty that the policies within will be adopted in their current form, I attribute them limited weight.

Background and Main Issue

3. Planning permission for the erection of a cattle shed was granted in May 2019 with a condition which restricted the use of the building to agriculture and requiring submissions of details of decommissioning and removal in the event that the approved use is no longer required.

4. The appellant considers that the condition does not meet two of the six tests set out in the National Planning Policy Framework (Framework). Therefore, the main issue is whether condition 3 of planning permission ref: 19/00320/FP is necessary or reasonable in all other respects.

Reasons

5. The appeal site lies in a rural area surrounded by agricultural fields. The character and appearance of the area was assessed during the application process and was found to have been acceptable. While I note the considerable size of the building, given the rural setting and that it would be located near to other agricultural buildings, I see no reason to disagree.
6. The Council has stated that the condition restricting the use of the building to an agricultural one is necessary to safeguard the character and appearance of the area. Since alternative uses could alter the appearance of the building and the land around it thereby impacting the character and appearance of the area, the part of the condition restricting the use to agricultural purposes is necessary and reasonable. This part of the condition would therefore accord with paragraph 55 of the Framework.
7. The latter part of the condition requires the submission of decommissioning and removal details that would apply in the event that the agricultural use ceases. This would not provide the appellant an opportunity to apply for planning permission for alternative uses. Therefore, this part of the condition would not be necessary or reasonable in all other respects.
8. While I note that similar conditions may have been used for planning consents elsewhere in the district, each case must be determined on its own merits and this has not altered my overall decision.
9. I note the evidence regarding normal permitted development provisions, the history of the site, and the service provided by the Council. I also acknowledge the National Planning Policy Framework's support of a prosperous rural economy and that there are no concerns regarding the effect of the proposal on the amenity of neighbouring occupiers. However, these matters have not altered my overall decision.

Conclusion

10. I conclude that the first part of condition 3 of planning permission ref: 19/00320/FP which restricts the use of the cattle shed to agricultural purposes is necessary and reasonable in all other respects, and that the latter part of the condition requiring details of decommissioning and removal is not necessary or reasonable. Therefore, I will replace the condition subject to the appeal with one that only refers to the restriction of the use of the building.
11. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

R Sabu
INSPECTOR