
Appeal Decision

Hearing held on 21 December 2016

Site visit made on 21 December 2016

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 28th December 2016

Appeal Ref: APP/H1840/W/16/3156871

Dunnetts Field, Hurst Lane, Fernhill Heath, Worcestershire WR3 8SH

- 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 Mrs Julie Howes against the decision of Wychavon District Council.
 - The application Ref W/16/01191/CU, dated 7 May 2016, was refused by notice dated 12 August 2016.
 - The development proposed is for the siting of a temporary agricultural workers dwelling (static caravan type) for a period of 3 years for reasons of animal welfare, for security of livestock, buildings and equipment and to enable the business to grow.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use for the siting of a temporary agricultural workers dwelling at Dunnetts Field, Hurst Lane, Fernhill Heath, Worcestershire WR3 8SH in accordance with the terms of the application, Ref W/16/01191/CU, dated 7 May 2016 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Example Mobile Home Elevations Scale 1:100; Location Plan "Land to the west side of A4536 Hurst Lane, Hindlip"; and Block Plan "Heart of Hindlip" only.
 - 3) The use for the stationing of the mobile home/twin unit caravan shall be for a limited period of three years from the date of this decision. At the end of this period, the use of land for the stationing of the mobile home/twin unit caravan shall cease and all materials and equipment brought onto the land in connection with the use shall be removed and the land restored to its former condition.
 - 4) The occupation of the temporary dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 5) Prior to first occupation of the temporary dwelling hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and shall be maintained for such purposes thereafter.
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- 6) The mobile home/twin unit caravan hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 7) Unless otherwise agreed in writing by the local planning authority, the mobile home or twin unit caravan hereby permitted shall be finished in a dark green colour to BS381 24 and maintained in that colour for the duration of this permission.
- 8) No development shall commence until details of soft landscape works have been submitted to and approved in writing by the local planning authority to include trees and hedges to be retained. These details shall include details of boundary treatment and tree/hedge/shrub planting of native species and/or suitable fencing along the perimeter of the application site and associated land comprising this farm enterprise and shall give details of proposed species, plant sizes and planting densities. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

Preliminary matters

2. The appellant confirms that the details of the mobile home shown on the submitted plans with the application are for illustrative purposes only to indicate the scale of development. I have considered this appeal accordingly.
3. At the hearing the appellant presented two letters of support together with financial accounts for the period July 2016 to December 2016. The Council made no objection to my consideration of this late evidence and I do not feel that the Council's interests would be prejudiced by my acceptance of such evidence.

Main Issues

4. The appeal site is located within the Green Belt. The main issues in determining this appeal are therefore:
 - Whether the proposal is inappropriate development for the purposes of the National Planning Policy (the 'Framework') and development plan policy;
 - The effects of the proposal on the openness of the Green Belt and on the character and appearance of the surrounding countryside; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. Dunnetts Field is a small agricultural holding of one field of around 1.3 hectares, which effectively comprises an island within major highways including the A4536 and the spur access onto the A449. The site is close to the village

of Fern Heath within reasonable walking and cycling distances. The site contains several ad hoc structures that comprise a mixed agricultural holding and predominantly poultry enterprise. The various sheds and poultry housing together with plethora of pens and a touring caravan are located in the northern one third of the field. The site is enclosed by mature trees and hedgerows and access is via Hurst Lane alongside the slip road leading onto the A449.

Whether inappropriate development

6. Part 9 of the National Planning Policy Framework (the 'Framework') states that Government attaches great importance to the Green Belt, and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Substantial weight should be given to any harm to the Green Belt.
7. Paragraph 89 of the Framework indicates that, except for a small number of exceptions, the construction of new buildings within the Green Belt should be regarded as inappropriate. This would also apply to the siting of temporary structures for residential use. Inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Very special circumstances 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.
8. The general approach to Green Belts is reflected in the adopted South Worcestershire Development Plan (2016) at Policy SWDP2. This Policy also points out that the countryside between Fernhill Heath and Worcester is narrow, thus emphasising the need to ensure that such intervening land remains open thereby maintaining its function as Green Belt.
9. Consequently, the proposal would be inappropriate development in the Green belt. And would similarly be contrary to Policy SWDP2.

Character and openness of the Green Belt

10. Openness is an essential characteristic of the Green belt as set out in paragraph 79 of the Framework.
11. The Council is concerned that the introduction of built form and associated residential paraphernalia would encroach into the countryside as well as resulting in loss of openness to the Green Belt. The plans show that the temporary mobile home would be located towards the northern part of the field in the centre of the farming operations and in close proximity alongside to the various poultry structures and pens. The boundaries of this field, beyond which are principal highways, comprise of a belt of mature deciduous trees and hedgerows. Although slightly elevated above the A449 slip road but at roughly the same level as the A4536, the boundary vegetation forms a thick screen, which would mean that the mobile home structure would be sited unobtrusively.
12. The appellant has indicated a willingness to fill in the few gaps that exist in one or two small sections of the field boundaries as well as undertake further tree planting as required. The Council's Landscape Officer has commented that the site is fairly well contained and despite the deciduous nature of the vegetation, even in winter the density of vegetation still provides a "fairly effective foil".

Subject to appropriate subdued dark colouring of the mobile home and further landscaping, the agreed Statement of Common Ground confirms that the appeal proposal would be sited unobtrusively and thereby would not significantly affect the character and appearance of the surrounding area. In terms of potential domestic paraphernalia, the available space does not appear to me to be excessively large and is in any event surrounded by small scale structures and enclosures sufficient to not cause any additional harm.

13. Overall, I accept that there would inevitably be some loss of openness because new development would encroach on to undeveloped land. Nevertheless, because of the mobile home's unobtrusive siting, limited size and bulk, it would not have significant prominence, dominance or impact. Consequently, the loss of Green Belt openness would not be significant.
14. I therefore conclude that the proposed development would not be harmful to the essential characteristics of Green Belts as defined in paragraph 79 of the Framework and therefore would not conflict with the above policies with regards to maintaining the high quality of the open countryside in the surrounding area. Although cognizant of the need to provide adequate separation between Worcester and Fernhill Heath, I am of the view that the character and appearance of this "island" site is already compromised to a significant degree by highway infrastructure. Therefore I find that other harm, in addition to harm by reason of inappropriateness would be limited.
15. Accordingly, these considerations would add no additional weight against the proposal.

Other considerations

16. The Framework at paragraph 55 advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, such as the need for a rural worker to live permanently at or near their place of work. This is also set out in Policy SWDP19 which specifically sets out criteria where development of a temporary dwelling to support an agricultural enterprise, amongst other appropriate rural enterprises, would be permitted.
17. Annex G to Policy SWDP19 requires an assessment of functional need and financial viability of the enterprise to demonstrate there is an essential need for a dwelling for the proper functioning of the enterprise. I examine these aspects, taking account of the evidence provided with the appeal and what I heard at the Hearing.

Functional Test

18. It has been put to me by the appellant that there is a functional need for the dwelling for reasons of animal husbandry, security and practicality.
19. As previously noted, the farm is primarily engaged with poultry production but with some livestock. The farm operations are mainly carried out by Mr Howes but with substantial support of Mrs Howes and other family members, including until his recent demise, of Mrs Howes' father. Mr Howes is an agricultural haulier and works approximately three days a week as a lorry driver. I was told that they incubate eggs and rear hatchlings at their present home before stock is brought onto the land to mature and lay. Some sheep are kept here

- and also at other locations where land the subject of short term tenancies and arrangements on a "gentleman's agreement" basis is made available.
20. It was explained to me that the poultry and fowl egg production side of the business requires a high level of care and supervision, particularly as the ethos of the enterprise is based on free range and high standards of animal welfare free of cage production. The minimum level of care required amounts to the need for one of the family members to attend to and feed the stock three times per day. Whilst there is a degree of seasonality, the range of stock has expanded so that all the year care and supervision is now necessary. This will expand yet further with the introduction of a small goat herd and the considerable scaling up of the sheep flock. The latter will require grazing land to be found but, in the appellant's experience, many lowland sheep farm depend on short term tenanted land for the grazing of their livestock and that this is in plentiful supply locally.
21. Although security against predation, particularly from foxes and birds of prey, theft, injury or disease is not normally adequate justification for an agricultural dwelling, it can contribute to an overall functional need and to my mind, can add weight to proposals for temporary dwellings as a fledgling business expands and proves itself over a few years. The security measures that have been undertaken at the site, including electric fencing, dummy CCTV cameras have not prevented incidents of theft or predator attacks. Whilst the Council suggested that other security measures could be employed here, the appellant dismissed these suggestions on grounds of costs as well as the sheer determination of offending humans and animal/bird predators. Although no costs were provided of undertaking additional security measures, I accept that it would be likely that the range of additional measures suggested by the Council would not be financially viable for such a small-scale business at this juncture of its expansion.
22. I acknowledge that being within 'sight and sound' of the birds and livestock would mean that issues such as fox attacks could be dealt with swiftly. I also recognise that a recent theft at the site resulted in a loss to the business of several thousands of pounds' worth of stock and equipment. As the business expands both in terms of the range and numbers of stock kept and the reputation for high quality products, particularly quail, the risk of further incidents is an increasing possibility. I also heard that quail are relatively delicate creatures that require careful rearing.
23. I recognise the commitment and sheer hard work that has been put into this business and the inconvenience of having to drive across parts of urban Worcester that has seen considerable commercial intensification in recent years resulting in journey times of 20 minutes to the site from the appellant's present home to attend to livestock. The appellant dismissed the suggestion that finding suitable property in Fernhill Heath, which would be a short 10 minute walk away would offer a practical solution to the problems explained above. Fernhill Heath is a much sought after village locally and properties would be out of reach for the appellant. Moreover, the appellant would need to continue to incubate and rear fledgling stock at their home, which if displaced to Fernhill Heath could create discourse with close neighbours.
24. Overall, after careful consideration of the submission of parties, I conclude that there is a functional need for a temporary dwelling to manage and oversee this

enterprise. The functional need is likely to become even greater if the sheep and goat expansion occurs together with the introduction of higher quality quail breeds.

Financial test

25. The appellant provided financial data in support of her appeal that comprised a three-year financial appraisal in the form of a business plan, much of which was "schematic" and aspirational. However, at the Hearing, further submissions were made including actual half yearly accounts for 2016 to give a full year's trading for 2016. Although the Council accepted that the figures are on an upward trend, from the evidence, it is clear that based on the latest 2016 accounts, the actual profits would provide less than the minimum wage and considerably less than the minimum agricultural wage.
26. Annex G to Policy SWDP 19 requires evidence that a proposal for a temporary dwelling is based on a sound financial basis, which is arguably a lower test threshold than what would be necessary for a permanent dwelling. This is in recognition that businesses should be encouraged to expand and is consistent with paragraph 28 of the Framework that seeks to support economic growth in rural areas and to promote the development and diversification of agricultural businesses. I accord this consideration significant weight.
27. The appellant maintains that the plans for growing the enterprise would increase the need for on-site supervision. However, it seems to me that the poultry business, which takes up the greatest percentage of labour hours would not on its own provide an adequate source of income and the success of this enterprise depends to a large extent on the success of the sheep enterprise, supported by the goat herd that comprises part of the appellant's case. However, I have no doubt that the enthusiasm and sheer hard work that the appellant and her family have so far shown stands them in good stead for the future success of the enterprise. During the initial period as the enterprise further establishes itself, I understand that the existing home will be rented out and the appellant will keep working as a teacher. Whilst this cannot be taken into account as part of the business enterprise, it does indicate that a temporary permission would not cause unnecessary hardship later on if things do not materialise in the way it is forecasted.
28. I conclude that the proposal would comply with paragraph B of Policy SWDP 19 and with Annex G of the policy on the basis that the proposed expanded enterprise as described has been planned on a sound financial footing. A temporary permission would therefore be consistent with the policy and with the Framework. This would enable the local planning authority to review the success of the expanded business at the end of the temporary period.

Conditions

29. The Council has suggested a total of twelve conditions, including the two conditions presented at the Hearing. I have considered these conditions in the light of the advice contained in the Planning Practice Guidance and the Framework and have amended some of these and deleted others on grounds of necessity. In addition to the standard time limit for commencement I have specified the approved plans in the interests of certainty. Given the need to review the progress of the rural enterprise on site after a period of three years, a condition restricting the use of land for a temporary period is included in

compliance with local and national policies. An occupancy condition is also imposed having regard to the location of the site in the open countryside. Conditions are imposed requiring compliance with the agreed water management statement and requiring approval of sewage disposal facilities to be agreed prior to occupation in order to protect water quality. A single landscaping condition requiring retention of existing vegetation and submission of planting details together with their implementation is necessary in the interests of protecting character and appearance.

30. I do not consider that a lighting scheme for a temporary use of a caravan/mobile home is necessary nor do I consider a condition requiring approval of refuse and bin storage is necessary having regard to the position of the unit on site and the opportunity to locate such modest paraphernalia within the site curtilage.

Conclusion

31. The Council acknowledged at the Hearing that this particular enterprise is heading in the right direction. I would say that the case is finely balanced. In light of the evidence before me in terms of the functional and financial considerations in this case, including the updated information presented to me at the Hearing, I find that the other considerations set out above in favour of the proposal, when taken together are sufficient to clearly outweigh the harm that I have identified in respect of inappropriate development. Therefore very special circumstances to justify the proposed development do exist. Accordingly, a temporary permission for three years as proposed would not conflict with Policy SWDP 19 or with the Framework.
32. I have considered all of the matters before me and, for the reasons above, the appeal succeeds and temporary planning permission is granted thereby enabling the appellant to continue with business expansion of this agricultural enterprise and to enable a rigorous review to be undertaken by the local planning authority at the end of the temporary period.

Gareth W Thomas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs J. Howes

Mr R. Howes

FOR THE LOCAL PLANNING AUTHORITY:

Mr K. Denton Planning Officer, Wychavon District Council

DOCUMENTS SUBMITTED AT THE HEARING:

- Doc.1: Accounts of enterprise from July-December 2016
- Doc.2: Letter of support from Mrs L Davies
- Doc.3: Letter of support from Mr N Kinsey
- Doc.4: Annex G to SWDP 19