
Appeal Decision

Site visit made on 12 December 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 18th January 2017

Appeal Ref: APP/M1595/W/16/3156043

Farino Stud Farm, Love Lane, Aveley, Essex RM15 4HT

- 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 Jim Catchpole of the Farino Stud Farm against the decision of Thurrock Borough Council.
 - The application Ref 16/00036/FUL, dated 26 December 2015, was refused by notice dated 6 May 2016.
 - The development proposed is removal of existing caravan and replacement with one bedroom mobile home.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address and description of the development used on the Council's decision notice are different to the details used on the application form. For the purposes of the banner heading above I have therefore used the details that are shown on the application form.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt; and
 - If the development would be inappropriate, whether the 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 necessary to justify it.

Reasons

Whether inappropriate development within the Green Belt

4. The mobile home, as a replacement for an existing caravan, would be occupied as residential accommodation in association with the operation of the appellant's 'rare horse breeds stud farm'. The planning statement accompanying the planning application and the appellant's appeal statement refer to the development being for a temporary period. However, the
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description of development does not state this nor does the appellant's case provide an indication of the temporary period sought. I shall return to the matter of the duration of the use in my reasoning below.

5. The parties agree that the siting of the mobile home would be inappropriate development within the Green Belt, having regard to the provisions of the National Planning Policy Framework (the Framework), most particularly paragraphs 87 and 90¹. The inappropriate nature of the development means that there would also be conflict with Policy PMD6 of the Thurrock Core Strategy and Policies for Management of Development Focused Review: Consistency with the National Planning Policy Framework of 2015 (the CSPMDFR). That is because the use of the land would not come within one of the identified types of development that may be considered as being not inappropriate within the Green Belt for the purposes of Policy PMD6.
6. I agree that for the purposes of the above mentioned national and local policies the development would amount to inappropriate development within the Green Belt. The development because of its inappropriateness would, by definition, be harmful to the Green Belt and I therefore conclude that great weight should be given to that harm.

Green Belt Openness

7. Paragraph 79 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence.
8. Within the north western corner of the appellant's landholding (the landholding) there are various stable buildings, other associated structures and a static caravan and a touring caravan that are associated with the land's equestrian use. I found the north western corner of the landholding to be quite intensively used and not to be exhibiting an open appearance.
9. The landholding forms part of a wider tract of open land, which includes a number of paddocks, which lie between the residential area in Love Lane and Hall Road to the north and the A13 to the south. The wider tract of land is, with the exception of the buildings and caravans within the appellant's landholding and some sporadically sited stable type buildings in the adjoining plot of land to the south, free from development and is therefore of a generally open character.
10. Although the development would replace an existing caravan, its siting would nevertheless, even on a temporary basis, contribute to the localised reduction in the openness of the landholding's north western corner. In relation to the existing caravan the appellant has submitted² that, while it has been in-situ for in excess of ten years, evidence is unavailable to demonstrate that it has lawfully been in residential use. In terms of the development's effect on the area's openness, as it has not been demonstrated that the existing caravan can lawfully be occupied for residential purposes, I consider little weight can be attached to the fact that the mobile home would replace an existing

¹ Paragraph 90, as opposed to 89, of the Framework should have been referred to in the reason for refusal given that the development would involve a use of land as opposed to the construction of a new building

² Paragraph 4.20 of the appellant's Planning Statement

caravan, even though in general appearance terms there might be some advantage in the mobile home replacing the older caravan.

11. The development would involve some planting being undertaken along the site's western boundary with the neighbouring track, to the south of the mobile home. I recognise that this planting would provide some screening, however, it would take time to mature and would not assist in keeping the land open and free from development. I am also of the opinion that the possible installation of timber cladding to the exterior of the mobile home would do little to assist with maintaining the openness of the area and if anything would serve to give the mobile home the appearance of being a permanent building.
12. The appellant states that permission is sought on a temporary basis, however, no indication has been given as to the duration of such a period and what the intention would be at the expiry of any such period. The appellant has purchased the landholding, having relocated from a piece of rented land elsewhere in Aveley because that other site had to be vacated. Having bought the site, and given the representations in the appellant's case, it appears that he intends that the breeding and livery activities at the landholding will continue into the foreseeable future.
13. Temporary permissions for residential accommodation in the countryside are often thought of in terms of being for periods of three years and are usually sought when an agricultural enterprise is establishing itself and long term viability is an issue. The appellant acknowledges that his use of the landholding is not an agricultural one, which means that considerations about the viability of a farming enterprise are not applicable in this instance. Notwithstanding that if I was to find that a permission of three years duration was reasonable, it is unclear what would happen at the end of such a period, given that the appellant considers there is a functional need for a full time residential presence at the site. I consider the functional need for the development in greater detail under the third main issue below.
14. It appears to me that the requirement for any full time residential presence would extend beyond a temporary permission of say three years duration and such a permission would therefore not meet the appellant's need. The Government's policy on temporary permissions is set out in the conditions section of the Planning Practice Guidance³ and states second temporary permission will rarely be justified. Accordingly for the requirement identified by the appellant to be met it appears that a permission of a much longer duration than three years would be necessary. That would mean that the development would be of a much more permanent nature.
15. I therefore consider that in order to meet the appellant's requirement the development would involve the longer term continuation of the intensity of activity in the landholding's north western corner. That would facilitate a semi-permanent or permanent loss of openness and would therefore give rise to conflict with paragraph 79 of the Framework and Policy PMD6 of the CSPMDFR. There would also be conflict with paragraph 80 of the Framework in that the countryside would not be safeguarded from encroachment. While the harm to the Green Belt's openness would be quite localised, this is nevertheless a factor that I consider attracts moderate adverse weight.

³ Paragraph: 014 Reference ID: 21a-014-20140306

Other Considerations

16. It is submitted that a full time residential presence is required to enable the appellant or his partner to provide care and security for the rare breed horses and ponies that are being kept for conservation purposes, with some of those animals being owned by the appellant, while others are kept at the site on a fee earning livery basis. The appellant considers that around the clock care is particularly important during foaling. The number of horses and ponies that are kept at the landholding fluctuates with the average total of breeding mares and stallions being around 18 at any given time⁴.
17. The appellant's case is supported by correspondence from the Hackney Horse Society and his veterinary surgeon. The society advises that Hackney Horses are considered to be a very rare breed with 17 new horse and 17 new pony registrations being undertaken by it for this breed per annum. It is submitted that annually five foals are reared by the appellant at the site. While I appreciate the significance of the appellant's work towards the conservation of equestrian rare breeds, the number of foals born at the site each year seems quite low and is at a level that I consider does not warrant a full time on-site residential presence. It is further submitted that conditions, such as colic, require around the clock monitoring for at least 48 hours, however, no information about the frequency of such illnesses has been provided and I therefore find this part the appellant's case not to provide a justification for the development.
18. The letter from the appellant's vet states that it 'would be a benefit to the horses at the Farino Stud to have the owners/managers on site 24 hours a day'. However, I consider the phrase 'would benefit' does not amount to an endorsement of there being an essential functional need for a full time residential presence. I therefore find the vet's letter to lend support to my view that animal welfare reasons do not justify a full time residential presence. While it might be desirable to be resident on site on a full time basis to provide care, given that the appellant currently lives 14 miles away from the site, no explanation has been provided as to why accommodation of a more temporary nature, such as a touring caravan or a camper van could not be used at times when mares are due to foal or horses or ponies are ill and overnight attendances are required.
19. With respect to security I accept that there would be some benefit arising from a full time residential presence and in this regard I note that there has been one incidence of a burglary at the site being reported to the police, although no details of the scale of that theft have been provided. It is submitted that while CCTV could be installed this would be an expensive option and may not be that effective. However, no information about the relative cost differences between siting a mobile home versus installing a CCTV system have been provided and I therefore consider fairly little weight can be attached to this aspect of the appellant's case.
20. For the reasons given above I find that the evidence that has been submitted does not demonstrate that there is a functional need for a full time on site residential presence either to provide care for the horses and ponies or for security purposes. I therefore attach fairly limited weight to the appellant's functional needs case.

⁴ Paragraph 6.14 of the appellant's Appeal Statement

21. The livery stable activity, together with the sale of foals and the offering of stallions for stud return a 'small profit' to the appellant and that is reinvested by the appellant into the conservation of the rare breeds. While I do not doubt that the appellant's actions are very well intentioned, I attach little weight to the revenue generating aspect of the appellant's use of the landholding. That is because the reinvestment of the revenue into the conservation of the rare breeds means that there is unlikely to be any significant economic benefit to the area. I therefore consider that this is not a rural enterprise of the type attracting support under paragraph 28 of the Framework, especially as the appellant's use of the landholding is not an agricultural one. I therefore find that little weight can be attached to this aspect of the appellant's case
22. I also consider that paragraph 55 of the Framework provides no particular support for this development. That is because the submitted evidence does not indicate that the appellant should be considered to be a rural worker, given that the appellant does not seem to be earning a living from the landholding's use. In the absence of such an income contributions to either the enhancement or maintenance of vitality in the area cannot be made. I therefore find that this aspect of the appellant's case attracts little weight.
23. I note that the appellant has been unable to find a house to rent to date within close proximity to the landholding, however, the submitted evidence suggests that the rental avenue has not been fully exhausted. Given my finding that there is not a functional need for a full time on site residential presence, I consider that any difficulty in finding rented accommodation only weighs to a moderate degree in favour of the development.
24. I accept that the livery element of the landholding's use supports a recreational activity in the area, and this is something that potentially attracts support under paragraph 81 of the Framework. However, this benefit of the development will only be applicable to people who keep horses and I therefore consider that it is a factor that attracts minimal weight.
25. While my attention has been drawn to an appeal⁵ concerning Stonebridge Farm, Rainham in the London Borough of Havering, I consider that decision has a limited bearing on the case before me. This is because that appeal concerned a rare breed sheep rearing enterprise recognised by DEFRA, the appeal was determined at a time when different national planning policy was in place and Stonebridge Farm appears to have been subject to the persistent theft of livestock and problems concerning the worrying of sheep by dogs.

Conclusions

26. For the reasons given above I conclude that the matters raised by the appellant in support of the development do not outweigh the substantial harm to the Green Belt by reason of the inappropriateness of the development and the harm that would be caused to the Green Belt's openness. I consider that the harm to the Green Belt could not be overcome by the imposition of reasonable planning conditions, including the granting of a temporary planning permission.

⁵ APP/B5480/A/06/2011072

27. Accordingly there are not the very special circumstances necessary to justify inappropriate development within the Green Belt. I therefore conclude that the development would be contrary to Policy PMD6 of the CSPMDFR and the Framework and that the appeal should be dismissed.

Grahame Gould

INSPECTOR