

Appeal Decision

Hearing held on 17 January 2017

Site visit made on 17 January 2017

by A Jordan BA Hons MRTPI

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

Decision date: 31 January 2017

Appeal Ref: APP/P4415/W/16/3156143

North Farm, Piper Lane, Aston, Sheffield, South Yorkshire, S26 2DN

- 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 Chris Foster against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2013/0307, dated 5 March 2013, was refused by notice dated 10 March 2016.
 - The development proposed is retention of a mobile home and a portacabin.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development is described as retention of a mobile home and a portacabin. However, retention is not an act of development. At the hearing the parties confirmed that the application is made retrospectively and seeks to regularise the use of the site for the stationing of a mobile home and a portacabin which is being used in association with the residential use of the mobile home. The parties agreed at the hearing that the structures were not buildings. I have therefore determined the appeal on the basis of the change of the use of the land to allow the stationing of a mobile home and portacabin for residential use.
3. The application was made on the basis of the permanent retention of the structures on site. At the hearing the suitability of a condition allowing the development for a temporary period was discussed. I have discussed the merits of this approach below.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development for the purposes of the *National Planning Policy Framework* (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt and the character and appearance of the area;
 - Whether there is an essential need for an agricultural worker to live at the site; and
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- If the development is inappropriate, 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

Inappropriate development

5. The Framework outlines in paragraphs 89 and 90 the types of development which are considered to be not inappropriate development within the Green Belt. The proposal comprises the change of use of land from what I understand was originally agricultural use to allow the stationing of a mobile home and portacabin. This includes some small scale engineering operations to facilitate the siting of the mobile home, including the provision of hardstanding. A private garden area has been delineated with planting.
6. Paragraph 89 relates to new buildings. As the structures on site appear to be moveable I do not consider them to fall within the description of "buildings" and so the proposal cannot fall within any of the exceptions outlined in this paragraph. Paragraph 90 relates to other forms of development, which are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. None of these categories relate to the development proposed. Although engineering operations are included within the types of development which can be considered as not inappropriate, in this case any such operations have been carried out to facilitate a change of use of land which does not fall within any of the specified categories in paragraph 90. In this regard the proposal must be regarded as inappropriate development by definition.
7. The Framework is clear that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also conflict with Policy CS4 of the Rotherham local plan Core Strategy (CS). This harm must carry substantial weight.

Openness and character and appearance

8. The site comprises a small plot of land enclosed on 3 sides by established hedgerows which is reached by a long unmade track from Piper Lane, which crosses the farmyard. The site sits alongside a scrapyards a short distance from the village of Aston. It is well screened from public vantage points and sits in the bottom of a gently sloping valley.
9. As advised in the Framework, openness is an essential characteristic of the Green Belt. It can be taken as the absence of buildings and development and is not just a visual consideration. The site is made up of land which would otherwise be in agricultural use. I take into account the close proximity of the scrapyards and the farm yard, the established planting and the limited visibility of the site from wider view and accept the appellant's view that the development does not significantly harm the character of the Green Belt in this location. Nonetheless, in that the development has introduced built form where there was previously none, the presence of the mobile home and portacabin on the site, along with the associated domestic paraphernalia have led to some loss of openness, albeit to a relatively limited degree. I also note the appellant's view that the proposal is reversible, and would not result in

permanent change to the landscape. Nevertheless, although I find no conflict with policies CS28 of the CS and policy ENV1.2 of the *Rotherham Unitary Development Plan* which together seek to protect the character of the area, including Areas of High Landscape Value, the proposal would conflict with advice in paragraph 79 of the Framework. The Framework states that openness is an essential characteristic of the Green Belt and that substantial weight should be attributed to any harm to it. I must therefore attribute substantial weight to this loss of openness.

Whether there is an essential need for an agricultural worker to live at the site

10. The Framework is clear that isolated new homes in the countryside should be avoided unless there are special circumstances including the essential need for a worker to live permanently at or near their place of work. In this regard the Council consider the proposal to be contrary to policy CS33 of the CS. The appellant advises that he needs to live on site in order to run his farm business. I was advised at the hearing that the holding employs the appellant and his wife, who also works elsewhere. His son, who returns from agricultural college at weekends and outside term-time also occasionally works at the farm. The holding is around 63 hectares in size, including additional land at Harthill and Woodsetts nearby. 2 enclosed farm buildings and an open-sided dutch barn lie on the site. I was advised at the hearing that part of the holding is used to grow winter wheat, and part is used to graze cattle and pigs, in varying numbers. I noted on site that the holding had equipment in storage in the buildings and in the open, including disused pig arcs.
11. During the hearing the extent to which an on-site worker was required for the enterprise was discussed. I was provided with anecdotal evidence of the need to attend calving at night-time. However, whilst I acknowledge that some such incidents may occur, at the time of my visit the only livestock on site were a small number of cattle, which were in calf, and a fattened pig. Although I note that some stock had recently been sold, the holding showed no evidence of livestock having recently been kept in any significant numbers. Instead, a large proportion of the land, and one of the farm buildings, were being used for livery. Although the appellant stated at the hearing that he intended to increase stock levels on site, I have no firm evidence of a coherent plan to do so. Furthermore, I was advised at the hearing of the appellant's intention to convert one of the buildings on site to residential use under Permitted Development Rights, an application for which had been submitted to the Council the day before the hearing. If successful and implemented, this could diminish the capability of the holding to accommodate livestock in winter months.
12. I therefore have no basis for concluding that future levels of livestock on site would greatly increase and so cannot conclude that the number of occasions when assistance would be required, or when other emergencies arise, would be any more than limited, and in the case of births would in any case be mostly seasonal. The need to be on site on those occasions could be facilitated with the seasonal provision of temporary accommodation on site, and would not amount to a need for a permanent on site presence.
13. Although I note concerns regarding security, I also take into account that there is often an inherent risk of theft or attempted theft of valuables or livestock from agricultural premises and this would not amount on its own to sufficient

justification for a permanent on site presence. I was also advised of an incident in 2013, when some dogs killed livestock. However, this occurred whilst the appellant was resident on site and I am not persuaded that this adds much weight to a demonstration of need.

14. At the hearing the availability of other accommodation in the local area was discussed. The holding lies a short distance outside Aston and although the trip is likely to be made by car at night, I noted during my visit that the distance to the settlement is not prohibitive. Neither the Council nor the Appellant provided me with any up-to-date evidence of properties for sale or rent in the village. Although I note that properties have been available for sale in the £100-£150K range, which would require a capital investment from the appellant, I was provided with no convincing evidence as to why renting a property in the local area would not be suitable an alternative. Whilst I note the appellant's preference to own a property at the farm, this does not provide sufficient justification to discount other forms of accommodation or tenure.
15. The application was supported by a 3 year business plan, dating from 2012 – 2014. This period now pre-dates the appeal. Although the appellant advises that the enterprise is now running at a profit, no up to date accounts for the enterprise have been provided. The submitted business plan shows the projected income from the holding as coming in roughly equal amounts from arable and livestock, with additional income from horse livery, contracting and from farm payments. The livestock element of the projected income was based on a plan to raise 100 pigs on site. This varies from the oral evidence Mr Foster provided of his future plans for the holding. He advised that the local market for rare breed pigs had not been as good as anticipated and that as a result he intended in future to breed smaller numbers of white pigs. He also intended to increase the number of cattle on site by raising weaned heifers, which he considered to be less risky than the suckler calves he has previously kept.
16. I have no reason to doubt that the appellant has extensive experience and knowledge and is committed to farming his land, and to passing on the business to his sons. Nevertheless, the appellant's submission lacks any up to date business plan, any evidence of actual financial returns for the last 3 years, or any firm strategy for deriving a significant income from livestock. I therefore have no basis for concluding that the business enterprise as presented to me would be financially viable in the long term. Furthermore, given my concerns outlined above, I have no firm basis for concluding that the livestock element of the use is likely to comprise a significant part of the farm operation. These factors lead me to the view that based on the evidence before me, an essential need for a permanent presence on the site has not been demonstrated and that this matter cannot weigh in favour of the development.

Other considerations

17. Although not expressed as a reason for refusal the suitability of the site as a sustainable location for development was discussed at the hearing. The site lies a relatively short distance by rural standards from local services. I concur with the appellant's view that travelling from the site to local services would generate a similar level of car trips as travelling into the site to work. I also take into account that a single household would not be likely to make a large

number of trips in any case. I therefore consider this to be a neutral factor in the planning balance that does not weigh in favour of the proposal.

18. I have also considered whether the current application to convert a farm building to residential use under permitted development rights is a significant consideration in this appeal. However, I have no indication of whether the application would be granted permission by the Council, and this limits the weight I can attribute to the matter.
19. I note that the appellant and his family have farmed the land for over 70 years and that his current accommodation has arisen out of necessity following a series of unforeseen events. He has lived in the mobile home for some considerable time. I am also mindful that if planning permission were to be refused, the outcome would be that Mr Foster and his family would lose their current home. This would represent a serious interference with the family's right to respect for private and family life and the home (Article 8 of the European Convention on Human Rights as incorporated by the Human Rights Act). This right is a qualified right, and interference with it could be justified in the public interest.
20. The appellant has suggested that a temporary consent for a further limited period would be appropriate to enable the outcome of the current planning application to be known, and I have considered whether this would be a proportionate measure. However, I have no indication of whether the current planning application is likely to be granted and this reduces the weight I can attribute to the proposed conversion as an alternative home. Furthermore, on the basis of the evidence before me I have no basis for concluding that suitable alternative accommodation is not available in the locality. Therefore, although I am mindful that a refusal would require the appellant to move from the site, as I have no convincing evidence that the appellant would be unable to find alternative suitable accommodation, or to continue to run his enterprise as he does at present, I attribute only moderate weight to these personal circumstances in the planning balance.

Conclusion – whether very special circumstances exist.

21. The proposal would be inappropriate development and would fail to preserve openness. The Framework establishes that Green Belt harm should be given substantial weight. I have taken into account the consideration of agricultural need, but for the reasons outlined I have concluded that an essential need for a dwelling at the site has not been demonstrated. The personal circumstances of the appellant carry moderate weight in favour of the development. However, this would not amount to the very special circumstances necessary to clearly outweigh the identified harm to the Green Belt. Very special circumstances therefore do not exist in this case. The development is therefore contrary to policy CS33 of the CS which reflects guidance in the Framework in relation to the presumption in favour of sustainable development.
22. Having regard to the legitimate and well-established planning policy aims to protect Green Belts, a refusal of planning permission would be proportionate and necessary. The protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights. A refusal of permission would not result in a violation of his rights under Article 8 of the Human Rights Act.

23. For these reasons, and having regard to all matters raised, I conclude that the appeal be dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Foster	Appellant
Linda Trollope MA MRTPI	Agent
Tony Jenkins MCIAT	JVN Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Andrew West	Development Control Officer, Rotherham Metropolitan Borough Council
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Document Submitted at the Hearing

Statement of Common Ground Dated 17 January 2017