

Appeal Decision

Site visit made on 20 May 2016

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/X1355/W/16/3141860

Land adjacent Chester Lea, Mill Lane, Plawsworth, Chester-le-Street, DH2 3LG

- 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 Steven Milligan against the decision of Durham County Council.
 - The application Ref DM/15/01755/FPA, dated 28 May 2015, was refused by notice dated 27 August 2015.
 - The development proposed is for temporary planning permission for 2 years for a static home (caravan).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has highlighted that since the planning application was determined the emerging Durham County Plan has been withdrawn, and that no weight should therefore be attached to the cited Policies within the Reason for Refusal. The Council has therefore relied solely upon the saved Policies within the Chester-le-Street District Local Plan to 2006, adopted 2003 (the Local Plan).
3. I have noted that there is some limited variation in the description of the address of the appeal site, with various references in identifying the land made to *Plawsworth Gate* and *Mill House* by the appellant, and *Land adjacent to Chester Lea* by the Council in the Notice of Decision. I have no doubt that it is the same parcel of land which is being referred to in each occasion. However, whilst I am satisfied that the reference to *Plawsworth Gate* would seem to address part of the surrounding area rather than the appeal site specifically, I consider in the absence of the observation of any definitive evidence identifying the land at the site visit, that the Council's description of the land is accurate. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - if the development is deemed inappropriate, the effect on the openness Green Belt and the purposes of including land within it;
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- if the development is deemed inappropriate, whether the harm to the Green Belt 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 the development.

Reasons

5. The appeal site is a relatively flat parcel of land which appeared to have been at least partially dug into the contours of the land, and which is indicated to be 0.22 hectares in area. The appeal site is located a short distance to the north of Mill Lane near to the village of Plawsworth, and is close to a small cluster of cottages to the west, which include the neighbouring semi-detached bungalows of Moorstream and Chester Lea adjacent to the site. The land is raised above the road level and is screened on the south and east boundaries by mature trees and planting, with a significant bund to the north denoting the boundary with the former quarry. Access to the site is from a track shared with the quarry and a further dwelling.
6. At the time of my visit, the site was occupied by the static home the subject of this appeal along with various domestic paraphernalia, as well as a number of vehicles and a caravan.

Whether the proposal is inappropriate development in the Green Belt

7. Paragraphs 87-89 of the National Planning Policy Framework (the Framework) state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "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. I have noted the submissions made by the Council and the appellant in respect of the description of the structure on the site, and as a consequence its permanence. I was able to observe the structure set on a metal base and that it benefitted from a certain degree of cosmetic cladding, a connection to mains services, and decking. However, whilst I am not entirely persuaded that the structure could be towed from the site with the addition of wheels as is claimed, I am also not of the view that the structure has adopted the degree of permanence contended by the Council. Irrespective of whether the structure could easily be moved by towing, I see no reason to conclude that the structure could not be removed from the site by crane and Heavy Goods Vehicle, and consequently I determine that it is temporary in nature and should be considered as such for the purposes of the assessment of whether it is inappropriate development in the Green Belt.
9. The static home is not a building for planning purposes, but the proposal involves changing the use of the land on which it is sited. I note that the Framework makes no provision for such changes of use within the Green Belt. Therefore, the appeal proposal is inappropriate development, which is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. I attach substantial weight to the harm arising due to the inappropriate nature of the development.

10. The Council has referred me to saved Policies NE4, NE5 and NE6 of the Local Plan, which seek to restrain development outside urban areas through the general extent of the Green Belt. Whilst I note that the policies are based on previous national policy, the policies seek to achieve essentially the same objective and do not alter my conclusion that the proposal would amount to inappropriate development.

The effect on the Green Belt and the purposes of including land within it

11. According to the Framework, openness is one of the essential characteristics of the Green Belt. The static home occupies land that was previously not occupied by development. Despite the overall scale of the caravan, the siting of even a modest unit where none existed previously would have a negative effect on the openness of the Green Belt. The impact on openness would worsen when vehicles associated with the occupation of the static home are parked in the immediate vicinity along with the impact of any domestic curtilage and domestic paraphernalia associated with the residential occupation.
12. I accept that the effect of any permission would be temporary given that the application for the static home is only made for 2 years. However, this would still be a comparatively significant period of time. Therefore, taking into account the generally rural character of the surroundings, I am satisfied that the appeal proposal taken in combination with activities associated with the residential occupation, would have a significant impact on openness and would as a consequence be contrary to one of the five purposes of the Green Belt, that being to safeguard the countryside from encroachment.

Other Considerations

13. The Council has highlighted that as a consequence of the location of the appeal site within the open countryside, there would be a reliance on the private car to gain access to facilities and services. Whilst I observed the relationship with the existing adjoining dwellings and the distance (approx. 0.25 miles or 400 metres) to the village of Plawsworth, the partial availability of a viable pedestrian environment along Mill Lane would prohibit reasonable access on foot, with a narrow section of Mill Lane to the site access requiring walking on the carriageway. In this respect, I would agree that this would not readily support pedestrian access to the site. In any event, I note that Plawsworth is indicated as being designated as a 'small village' in the County Durham Settlement Study 2012, as a result of possessing limited services and facilities, with lengthier travel to the wider services and facilities necessary.
14. The appellant has not disputed the Council's submissions and assessment of the accessibility and isolated location of the site within the Grounds of Appeal, and has offered no special circumstances to justify allowing an isolated dwelling within the countryside in accordance with saved Policy NE2 of the Local Plan or paragraph 55 of the Framework. Therefore, on the basis of the submitted evidence and my own observations, I see no reason to draw an alternative conclusion on the assessment of the accessibility of the site or the appropriateness of the development within the countryside. As a consequence, the location of the appeal site within the countryside would also attract substantial weight against the development.

15. The appellant has indicated that he undertakes a successful shot blasting service to local businesses in the area, with supporting testimony of such from a local business accompanying the appeal submission. Whilst this undertaking would be of undoubted benefit to the local economy, the Grounds of Appeal indicate that the business is not undertaken from the appeal site nor is there any suggestion that the success of the business is dependent on the residential occupation of this specific site. I have noted the reference to a nearby storage container where equipment and material related to the appellant's business is kept, however no evidence has been presented of a justified need for the appellant to be located in close proximity to this container. Therefore, there would appear to be no specific justification linking the business as support for the residential occupation of this site over either any other in the area, or indeed any reason why existing dwellings or settlements would be unsuitable to reside within.
16. I have carefully considered the appellant's submissions regarding his previous generally nomadic background, where it is indicated he has travelled around the country staying only for limited periods in each place. In particular, I have noted the references which have been made to previous stays in caravan sites designated for travellers and show people, and also to a past application(s) to Durham County Council for available sites for travellers on a temporary basis, which the appellant has highlighted was unsuccessful.
17. In considering this matter, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Equality Act 2010 legally protects people from discrimination in wider society, including groups with protected characteristics such as ethnic origins. However, on the basis of the very limited information which has been provided by the appellant in support of a nomadic background both in connection with the planning application and appeal, I note that no argument or reference has been made claiming gypsy or traveller status having regard to either the PSED or indeed in accordance with the definition set out in the Department for Communities and Local Government document, *Planning Policy for Traveller Sites (PPTS)* dated 2015. In any event, I am mindful that even if such status had been claimed, traveller sites in the Green Belt are inappropriate development, with personal circumstances and unmet need unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. In this instance, I do not attach any more than very limited weight in support of the development as a consequence of the information provided regarding the appellant's nomadic background.
18. The appellant initially submitted with the Grounds of Appeal very brief details referring to the Special Educational Needs (SEN) of a child residing at the appeal site. Whilst I have had regard to the Council's contention that this was a matter which was not referred to during the course of the planning application, the appellant, in responding to a request for further information during the course of the appeal, has now provided a greater level of detail and information in support of this point.
19. I have had careful regard to the information which has been submitted. It is evident that continuity of attendance at the nearby school is of benefit to the child, but that there is not a specific requirement based upon the described SEN restricting attendance to this school alone. I note that the SEN report does not make any reference to a demonstrable linked need for the child to reside

specifically on the appeal site, and that nearly all journeys are undertaken by private car. I have also noted the Council's reference to the distance (2.59 miles or 4.17 km) to the school, and would agree with the assessment that there are a number of existing settlements within a 2-mile radius of the school which would undoubtedly provide a range of alternative housing opportunities. There is no indication that a search for alternative accommodation or land within the settlements has been conducted previously.

20. In considering this matter, I am mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the children shall be a primary consideration in all actions by public authorities concerning children, and equally applies in this manner to appeal decisions. However, given the great importance attached to the protection of the Green Belt, and having regard to the detail of the submitted information, I conclude that the specific SEN of the child in question and the personal circumstances of the family and the occupation of the appeal site would attract only limited weight. As a consequence, whilst I accept that there may be some disruption to family life, I am not persuaded that there would be an automatic adverse effect on the education of children living on the Appeal Site.

Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations

21. I have identified that the static home would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and results in harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework. I have also identified that the development represents an unjustified and isolated form of development within the open countryside, contrary to Local and National policies.
22. Notwithstanding the harm identified above, I have had careful regard to the personal circumstances of the appellant and his family in respect of his reference to a nomadic background and the SEN of a child within the family, but have concluded that these matters must carry only very limited weight in favour of residential occupation of the appeal site. I have also attached some limited weight to the economic benefit of the appellant's local business. Nevertheless, I am satisfied that this would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
23. I have also had due regard to whether the potential dismissal of this appeal would interfere with the human rights of the occupiers of the appeal site to family life and to their home. This is particularly pertinent as the Council has indicated within their submissions that an un-appealed Enforcement Notice was served in September 2015 requiring a cessation of the residential occupation of the land, and the permanent removal of the static home and other associated structures including the decking.
24. It is evident that a likely consequence of a dismissed appeal is that the family would be displaced from the appeal site and existing home. However, whilst I have been mindful of the appellant's contention regarding unsuccessful

previous engagement with the Council to locate an alternative site, I do not consider that the extremely limited evidence in this regard confirms that there are either no identifiable other sites to relocate to, or alternative accommodation which could meet the family's needs.

25. Nevertheless, this must be balanced against the identified harm:

- a) To the Green Belt (which is substantial).
- b) To the openness of the Green Belt.
- c) The isolated location of the appeal site within the countryside.

26. I am satisfied, on the basis of the various harms identified above, that the dismissal of this appeal is necessary and proportionate in the public interest.

Conclusion

27. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

M Seaton

INSPECTOR