
Appeal Decision

Hearing held on 2 February 2017

Site visit made on 2 February 2017

by B Bowker Mplan MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/E2734/W/16/3158735

Roecliffe Nurseries, Sheaflands Lane, Roecliffe, York, Yorkshire YO51 9ND

- 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 Johnsons of Whixley against the decision of Harrogate Borough Council.
 - The application Ref 15/05199/FUL, dated 2 November 2015, was refused by notice dated 15 March 2016.
 - The development proposed is erection of worker's dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. In light of the Court of Appeal's judgement of 11 May 2016¹, the Council confirmed at the hearing that they no longer seek a financial contribution towards open space provision. Consequently, the appellant has withdrawn the submitted Unilateral Undertaking and this matter is no longer a consideration in my determination of the appeal.

Main Issue

3. The main issue is whether there is an essential need for a rural worker to live permanently at the appeal site in the countryside.

Reasons

4. Roecliffe Nurseries is approximately 4.5 hectares in size and comprises a number of glasshouses, polytunnels and outside planting areas. The Roecliffe site forms part of Johnsons of Whixley, a horticulture business which the appellant confirmed at the hearing comprises six local sites. The worker's dwelling would be sited within the Roecliffe Nursery site which is to the west of Roecliffe village. The site is adjacent to the Roecliffe Conservation Area.
5. For planning purposes, the parties agree that the site is located in the countryside. Core Strategy (CS) Policy SG3 seeks to strictly control new development in the countryside in accordance with national planning policy. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to avoid isolated homes in the countryside unless there are special

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

- circumstances such as the essential need for a rural worker to live permanently at or near their place of work.
6. In the absence of a specific local policy relating to rural worker dwellings, I agree with the parties that paragraph 55 of the Framework is of most relevance. CS Policy JB1 is also of some relevance and seeks to support the rural and agricultural economy.
 7. Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) is cited by the parties. However, as PPS7 is no longer extant, it attracts limited weight only. Nonetheless, PPS7 is a helpful tool in understanding the concept of need and the Council refer to an appeal decision that endorses this approach². Of relevance, PPS7 outlines that permanent agricultural dwellings should only be allowed where there is clearly an established existing functional need to be at the site most times at short notice and when this need cannot be met by suitable and available accommodation in the area.
 8. Alongside the Whixley site, the stock at Roecliffe Nurseries is aimed at the retail market which has a customer base comprising a number of garden centres and a large national retail chain. I do not doubt that this is a demanding market, requiring valuable plants to be ready and in a perfect condition at pre-specified dates. I understand that a sudden and unexpected change in temperature could result in a loss of stock harmful to the viability of the enterprise. The appellant highlights that two dwellings are at the Whixley site which assist in meeting the needs of a similar clientele base. However, I understand that both dwellings were built some time ago; one over 100 years ago and the other in the late 1970s that is subject to an occupancy condition.
 9. The stock lost during the winter of 2013 was put down to a sudden and unexpected drop in temperature not accurately predicted by weather forecasts. The appellant also outlined at the hearing that the site flooded over the most recent Christmas period and that the office has previously been flooded. It was outlined that flooding occurs roughly four times a year at the site as a result of heavy rainfall. Across the remaining seasons, the appellant also explained that a plant only needed to be exposed to a small change in temperature for a short period of time to be damaged and unsellable. Concerns regarding wind damage to the glasshouses, polytunnels and plants were also raised. Consequently, two daily weather forecasts, evening visits and 2 to 3 visits per day during the weekend are undertaken to monitor the site and plant health.
 10. Whilst a dwelling at the appeal site would be more convenient than the current arrangement, and result in less lone working, such personal circumstances do not provide justification for a rural worker's dwelling which must be based on the essential needs of the site and the business. Apart from the loss incurred during the winter of 2013, the evidence does not indicate that the risk to stock from the weather is significant, regular and all year round. Moreover, in my view, taking into account the relatively short travel time from the appellant's other sites; the loss incurred in 2013 would not have been avoided or substantially reduced by the presence of an on-site worker. Temperature changes are rarely sudden and improvements to procedures used to anticipate weather changes would assist in minimising stock risk.

² APP/E2734/W/15/3035973

11. With the above in mind, a number of practical solutions are suggested by the Council. Firstly, the use of on-site temperature monitoring equipment to prevent the need for a worker to be on-site to monitor the weather. Secondly, grouping together plants by growing temperatures to enable use of an automated heating system. Thirdly, exchanging stock at the Roecliffe site with the more resilient stock at the other warmer sites. Further, I see no reason why the existing ventilation system could not be upgraded so that it could be opened and closed remotely.
12. The appellant considers that the Council's suggestions are not achievable or reliable. However, they are practical and not uncommon steps that could prevent the need for an on-site dwelling. Furthermore, the appellant's rejection of the suggestions is not underpinned by any substantive reasoning or evidence. The above measures alongside the use of cameras to enable remote visual inspection of the plants would minimise the need for on-site plant health checks during unexpected weather changes. In any event, the Whixley site is approximately a 20 minute drive from the appeal site and would allow an on-site presence in a short period of time.
13. Whilst not central to the appellant's case, the evidence indicates that the site has not been subject to any recorded crime or theft. Although some minor theft incidents were mentioned during the hearing, these incidents occurred before the installation of the on-site CCTV cameras. The appellant's evidence indicates that no properties were available nearby at the time of the hearing. However, I have no evidence to demonstrate that this has been the case over a continuous period of time.
14. A rural worker's dwelling was granted planning permission at the main site in 2015. This permission followed an appeal dismissed solely on the grounds of the size of the dwelling. However, based on the information before me, I am unable to ascertain what factors led to justifying an essential need at the site.
15. An unimplemented temporary permission was granted at the site for a static caravan in 1992. The appellant noted at the hearing that such permissions are often issued to determine whether a business is viable. I agree. However, the permission pre-dates the Framework and the CS and I have seen no evidence to indicate that the business and planning policy requirements in place at that time were the same as those in the case before me. Consequently I afford the temporary permission limited weight.
16. I conclude that the essential need for a rural worker to live permanently at the appeal site in the countryside has not been demonstrated. Consequently, the proposal is contrary to paragraph 55 of the Framework which seeks to avoid isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work.
17. I further conclude therefore that the proposal would conflict with CS Policy SG3 which seeks to strictly control development in the countryside in accordance with national planning policy protecting the countryside. In the absence of an essential need, the support which Policy JB1 gives to rural businesses is not sufficient to outweigh the proposal's conflict with the first requirement of Policy SG3. The proposed development would thus fail to accord with the Development Plan taken as a whole.

Other matters

18. The Parish Council raises concern regarding access over common land. However, this is a private issue between the relevant parties and not a matter for my consideration in determining the appeal.

Conclusion

19. For the reasons given above, and taking all raised matters into account, I conclude that the appeal should be dismissed.

B Bowker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Clark

Arrowsmith Associates

Iain Richardson

Manager & Director of Johnsons of Whixley

FOR THE LOCAL PLANNING AUTHORITY

Mark Danforth

Planning Officer, Harrogate Borough Council

INTERESTED PARTY

David Siswick

Vice Chairman of Roecliffe & Westwick
Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Planning Policy Statement 7: Sustainable Development in Rural Areas 2004, Annex A.
2. Core Strategy Policy JB1: Supporting the Harrogate District Economy.
3. Properties for sale on Rightmove website, dated 27 January 2017, submitted by the appellant.