

Appeal Decision

Hearing held on 10 May 2017

Site visit made on 10 May 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 26 May 2017

Appeal Ref: APP/N4720/W/16/3164694

Midfield, Common Lane, East Ardsley, Wakefield WF3 2EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Geoff Simmons against Leeds City Council.
 - The application Ref 16/05323/FU/S is dated 23 August 2016.
 - The development proposed is the erection of a permanent agricultural worker's dwelling.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. At the hearing, both the appellant and the Council provided further written evidence. With regard to the former, this was in response to comments made by the Council's agricultural advisor Mr Roger Henderson. The latter was in respect of the Council wishing to refer to older accounting information that was part of evidence exchanged as part of a previous appeal. This was to illustrate a point.
3. There were no objections from either main party with respect to the content or relevance of the submissions. The evidence was of a confirmative nature in both respects and did not fundamentally alter the case before me. On this basis I am content that no party would be prejudiced by my acceptance of the submissions in support of both cases. I have thus taken them into account.

Main Issues

4. There are four main issues in the determination of this appeal. These are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt;
 - If the proposed development would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Such as, in this case, whether or not there is an essential need for an agricultural worker to live permanently at
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the appeal site so as to amount to the very special circumstances necessary to justify the proposed development; and

- The effect of the proposed development on the character and appearance of the area with specific regard to the size and design of the dwelling.

Reasons

Inappropriate Development in the Green Belt

5. The Framework¹ states that a local planning authority should regard the erection of new buildings as inappropriate in the Green Belt². There are exceptions to this set out further by paragraph 89. Both the appellant and the Council agreed with my view that, as the erection of a new dwelling, the proposed development would not fall within any of the stated exceptions. It would therefore be inappropriate development in the Green Belt. By definition, this would be harmful³.

The Openness of the Green Belt

6. The Framework indicates that openness is an essential characteristic of the Green Belt. Not solely limited to visual considerations, openness also has a spatial aspect and can be taken to mean the absence of built form.
7. The existing dwelling is linear and single storey. It has a pitched roof and no clearly defined curtilage bar some decking. The proposed dwelling would be sited on land that is currently vacant and notwithstanding it being an effective replacement of the temporary dwelling it would be taller and on a more sprawling footprint. For these reasons, I would consider that there would be a net reduction in openness.
8. I accept that the bund (and the trees planted atop) that was constructed as part of the landscaping scheme agreed for the wider farm yard complex would provide some screening. The dwelling would also be read in the context of the much larger buildings associated with the yard and it would be smaller by comparison, sat as it would be on lower ground to them. Nevertheless, and notwithstanding the fact that further reductions have been made to the size of the dwelling since a similar scheme came to appeal in 2015⁴, there would be a loss of openness in terms of its spatial aspect in the manner I have described above. There would be some harm from this loss, harm to which I afford substantial weight⁵. Further, this adds to the harm that would be caused by the inappropriateness of the proposed development.

Other Considerations

9. Amongst other things, paragraph 55 of the Framework suggests that isolated new dwellings in the countryside may be permitted where there is an essential need for a rural worker to live permanently at or near their place of work. In getting to the crux of the matter with regard to this particular issue, the Inspector in the 2015 appeal found there to be a need for a worker to reside at the appeal site in the operational sense of the enterprise. A previous Inspector

¹ The National Planning Policy Framework 2012

² Paragraph 89

³ Paragraph 87

⁴ APP/N4720/W/15/3004418

⁵ Paragraph 88

found the same when planning permission was granted for the establishment of the yard and a temporary dwelling back in 2008⁶.

10. The appellant confirmed at the hearing that there had been no significant changes in practice or size of the enterprise since the 2015 appeal decision. Based on these factors, the Council did not disagree with my view that there was a need for a worker to reside at the appeal site in the operational sense of the enterprise. The matter to consider therefore, as per paragraph 55, is whether that need is a permanent one. Specifically, is the business with which the dwelling would be associated likely to endure in the long term?
11. I have been provided with detailed accounts setting out the net profit of the business for financial years ending 2014, 2015 and 2016. These records are a further advanced financial picture of the business since the 2015 appeal.
12. The business experienced a net profit of £35,983 in year ending 2014. The appellant confirmed at the hearing that the noticeably lower net profit in year ending 2015 was due mainly to the significant reduction in beef prices throughout 2014. This was set against the input costs remaining the same. Taking this in the context of the findings of the Inspector at the time of the 2015 appeal, the Council agreed with my view that there was good reason for the noticeably lower profit that year. Year ending 2016 showed a return to a more healthy net profit of marginally over £30,000.
13. The appellant was unable to verbally confirm the outlook for year ending 2017 as the accounting information is not yet available. Given the figures I have before me (which is only one clear financial year on from 2015 and thus limited) the financial picture still shows mixed fortunes and a clear vulnerability to matters outside of the appellant's control. This was a similar conclusion reached by the Inspector in the 2015 appeal. Seldom would any business be completely immune to a 'bad year' in terms of net profit and indeed there appears to be good reason for the figure in year ending 2015. However, of further concern to me in terms of an accurate reflection of the businesses' profit and thus its viability in the longer term is the scale of the investment that the appellant has made and specifically the fact that it is not taken account of.
14. The appellant highlighted that buildings and stock were financed by his other businesses. These costs are not represented in the most up to date financial information that I have before me. In effect therefore, the business was and continues to be subsidised. The scale of the investment, which the appellant confirmed was over one million pounds, would appear to wipe out the stated profit and the business would run at a substantial loss if it were included. I am unsure without the exact figures as to how extensive this loss would be.
15. It is not unusual for investment to be required to get a business off the ground. Nonetheless, its lack of inclusion in the accounts does not give an accurate reflection of how it is performing or projected to in the longer term once commitments to pay back any investment have been met. I accept that the business is viable now and would continue to be so, but only if the appellant and his own financial support were involved in it. When taking all of these above factors together, I cannot be certain that the business will endure. Consequently, I am not satisfied that the need for the dwelling is, based on the

⁶ APP/N4720/A/07/2059879

evidence I have before me, a permanent one. The requirements of paragraph 55 of the Framework have therefore not been met.

16. There was discussion at the hearing, in the context of the essential need for the dwelling, over its size. The Council expressed concern that if the dwelling is being considered first and foremost in the context of business need; this should take precedence over personal wishes.
17. I do not disagree with this approach but similarly, for the purposes of comfortable family living; a three bedroom dwelling would be not be unacceptable. Nonetheless, the proposed dwelling would be of a noticeable land take and sprawling design. It would have a large open plan living space, generous hallway, sizable office and a double garage. These features would not be unacceptable as a matter of principle but their size, when taken together, seems to me to be more geared towards a personal preference than the needs of the business. I attach substantial weight to this matter given my findings on the harm the size of the dwelling would cause to the openness of the Green Belt.

Character and Appearance

18. The size, siting and design would also have an effect on the character and appearance of the area which is open countryside. The land on which it would be located is vacant and laid to grass. The farm yard and its associated buildings are sat on higher ground and whilst there is substantial separation distance, the area around the edges of the holding is characterised by housing on the edge of East Ardsley. In the wider sense, and running east from the appeal site, the land opens up into undulating open countryside.
19. The new dwelling would be taller than the existing temporary one albeit set further back into the site, thus marginally more recessive when viewed from Common Lane which is the closest public vantage point. The aforementioned landscaped bund would become more prominent over time and provide further screening albeit I do not consider that the design approach, in pure architectural terms, is necessarily found lacking. The temporary building would be removed as part of the proposals and built form would still be clustered as it is now.
20. For these reasons, and when taken overall, I do not consider that the dwelling would cause unacceptable harm to the character or appearance of the countryside. Whilst the Council did express further concern over the use of materials and finishes in the design, both main parties agreed with my view that a suitably worded planning condition could require such detail to be agreed prior to the commencement of development.

Conclusions

21. Notwithstanding my findings in this respect, it remains that the proposed development would be inappropriate development in the Green Belt. This would be harmful by definition. Further harm to the Green Belt would be caused by the net loss of openness as I have described it. As per the Framework, I ascribe this harm substantial weight. Considering this in the context of my findings on other considerations above, very special circumstances have not been demonstrated that would justify the proposed development in light of the harm.

22. Given this, the proposed development would fail to accord with saved Policies N32 and N33 of the UDP⁷ and the Framework. Between them, these policies seek to designate the extent of the Green Belt and protect it from harm. As a consequence, and having regard to all other matters raised, the appeal fails.

John Morrison

INSPECTOR

⁷ Leeds Unitary Development Plan (Review 2006)

APPEARANCES

FOR THE APPELLANT:

Geoffrey Simmons	Appellant
Michael Sunderland	DMS Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Roger Henderson	Leeds City Council
Michael Howett	Leeds City Council
Mary Bradshaw	Leeds City Council

DOCUMENTS SUBMITTED AT THE HEARING

FOR THE APPELLANT:

- Single page bullet pointed response to the Council's Agricultural Advisor

FOR THE LOCAL PLANNING AUTHORITY:

- Single page details of older business accounts from a previous appeal