

Appeal Decision

Hearing held on 16 May 2017

Site visit made on 16 May 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 20 June 2017

Appeal Ref: APP/A3655/W/16/3164914

Boyd's Farm, Murray's Lane, Byfleet, West Byfleet KT14 7NE

- 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 N Smith against the decision of Woking Borough Council.
 - The application Ref PLAN/2016/0013, dated 8 January 2016, was refused by notice dated 9 June 2016.
 - The development proposed is described as temporary permission for three years for an agricultural smallholding including erection of a milking barn, stationing of a mobile home, and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - 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

Background

3. The appeal site is located within the Green Belt, outside any settlement boundary and close to the village of Byfleet. It is part of a larger area of agricultural land, crossed by high voltage overhead power lines, around 2.3ha in area, and whose north and east boundaries directly adjoin the built-up area of Byfleet. The western boundary is enclosed by the tree planting and the embankment running alongside the M25 motorway. Murray's Lane runs along the southern boundary of the area which provides access to the site, as well as to the recently erected Scout hut on the land beside the east boundary of the area, and to a development of four pitches for an extended Romany Gypsy family on the opposite side of the Lane. In addition to the land off Murray's
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Lane, the appellant has access to a piece of land at New Farm House, of around 4.9ha which is located 5km away.

4. The appellant has been using the appeal site for agricultural purposes since 2011 and seeks planning permission for a residential caravan for a period of three years in connection with his enterprise, and based on essential agricultural need. While the application the subject of this appeal includes a milking barn, an application for a similar barn together with a livestock barn was granted planning permission in January 2017, after this appeal was made. The focus of the Council's objection therefore is the agricultural worker dwelling.

Planning Policy Context

5. Policy CS6 of the Woking Core Strategy October 2012 (CS) sets out that strict controls in the Green Belt will be applied over inappropriate development as outlined in the Framework. Policy DM13 of the Development Management Policies Development Plan Document October 2016 (DMP) describes how the Council will regard the construction of new buildings and forms of development other than those identified on allocated sites as inappropriate unless very special circumstances can be clearly demonstrated.
6. DMP Policy DM14 concerns rural workers' dwellings. It says that proposals for a dwelling for the accommodation of a person engaged in an agricultural operation or any other forms of activity that can only be reasonably located outside the urban area, including within the Green Belt, will be permitted where the applicant is able to demonstrate an essential, clearly established functional need for a new dwelling to house a full-time worker, and that this need cannot be fulfilled by another existing dwelling on the farm or other holdings or any other suitable available accommodation in the vicinity of the area.
7. In addition, in the case of temporary dwellings, it requires an applicant to demonstrate:
 - that the new dwelling is essential to support a new agricultural activity, whether on an already established or newly-created farm holding;
 - their intention to develop the enterprise based on a sound financial plan; and
 - that the proposal satisfies all other relevant Development Plan policies. It also requires a temporary dwelling to take the form of a caravan or mobile home and that it should be permitted for no more than three years.
8. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. A number of examples of special circumstances are given, one of which is the essential need for a rural worker to live permanently at or near their place of work in the countryside.
9. The appellant considers that the requirement to demonstrate a sound financial plan under Policy DM14 is more arduous than paragraph 55 of the Framework, and therefore it should be accorded limited weight. However, it relates to temporary dwellings, and reasonably expands upon and provides a methodology for assessing essential need in the context of paragraph 55, which I consider is broadly consistent with the Framework.

10. In any event, my determination, as required under section 38(6) of the Planning and Compulsory Purchase Act 2004, and unless material considerations indicate otherwise, must be in accordance with the development plan, which was adopted only a few months ago, and following an examination in public.

Whether the proposal would be inappropriate development in the Green Belt

11. Paragraph 89 of the Framework sets out exceptions to the presumption that the construction of new buildings should be regarded as inappropriate in the Green Belt, and includes buildings for agriculture. The proposed milking barn would fall under this exception and would not therefore be inappropriate development.
12. However, the proposal includes the stationing of a mobile home. While paragraph 90 describes 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 proposed mobile home. Engineering operations are included in the types of development which are not inappropriate; however, the track from the Lane to the stand of the mobile home would be to facilitate the change of use of the land which does not fall within any of the categories described in paragraph 90.
13. During the Hearing, the appellant agreed with the Council's position that the proposal would not fall within any of these exceptions and would therefore be inappropriate development. This is a conclusion I share. The dwelling would be inappropriate development under the Framework and CS Policy CS6, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The effect of the proposal on the openness of the Green Belt

14. The Framework indicates that openness is an essential characteristic of the Green Belt with a fundamental aim being to keep land permanently open. Openness has a visual as well as a spatial dimension, and I note the location of the proposed mobile home away from the most exposed area of the holding, as well as the dog-legged shape of the holding and the degree of enclosure alongside the motorway, and the duration of its proposed occupation.
15. However, the stationing of the mobile home on land which is presently open would lead to a significant reduction in openness, and for a significant length of time. The residential use would be a form of encroachment into the countryside which would conflict with one of the purposes of including land in the Green Belt as identified in paragraph 80.
16. I conclude on this issue that the mobile home and its residential use would erode the openness of the Green Belt, the harm to which, the Framework requires, substantial weight be given.

Other considerations

17. The Council accept that the home would not be remote from services and facilities; however, it would stand in a large, open field, physically remote from the edges of the settlement which have the distinct character of a village edge, bordering the countryside. I have taken into account the recently completed

Scout hut beside the field, as well as the appeal decision¹ in Nottinghamshire referred to by the appellant in which the Inspector found a location for a dwelling not to be isolated. However, the church and school in that case appear to be closer to the dwelling in that appeal, whereas I have reached my conclusion on this case on the physical circumstances surrounding this site and the siting of this proposal.

18. There was some discussion at the Hearing as to whether the appellant had a secure holding on the land at New Farm House, which is an essential part of the plan for the enterprise. While the tenancy agreement is brief and simple, I am satisfied that it would provide secure access to the land to cover the period sought in the appeal.
19. The central element of the appellant's justification for a functional need relates to care of livestock in the overall context of a small-scale farm. This model it was explained, differs from large-scale agricultural enterprise by being more labour intensive with the farming methods requiring greater observation. For instance, outdoor birthing for pigs; adding value for example producing cheese, yoghurt as well as milk; making direct sales to consumers for example to local butchers; recycling farm outputs such as manure and hay; and by having a social and environmental dimension by offering community visits and providing food with low 'food miles'. The basis of the farming model is to keep pigs and non-milking goats on the New House Farm site until they return to Boyd's Farm for kidding and farrowing.
20. There was some confusion arising from the appellant's description in his agricultural appraisal of goats kidding three times in two years and the pigs farrowing once per year. Taken as read, the Council's agricultural consultant considered that while kidding may be staggered and limited in number, the appellant would have some control over the farrowing and kidding window and that a seasonal caravan would suffice. However, it became clear at the Hearing that the appellant's description referred to birthing cycles rather than actual kidding. The business plan is centred on providing a continuous supply of meat and shows 20 goats kidding during March and April and 20 goats kidding during July and August. Sows would farrow in January and July.
21. During kidding and farrowing the Council agrees that close supervision is required night and day, but whereas the appellant suggests that farrowing sows need 2 months of close supervision, the Council contend that 4 to 6 weeks is ample, with a longer period for kidding goats. The challenges of outdoor farrowing and twin or triplet kids were highlighted by the appellant as significant risks to animal welfare as well as business sustainability.
22. According to the business plan the intense periods of birthing which would require a round-the-clock presence on the site would be taking place over no more than 6 months in the year. I note that the turkeys would be bought in as chicks and that while the geese stocks would initially require close supervision during incubation, after years 1 and 2 there would be no incubation required.
23. I have taken into account the other animals including the alpacas and ponies as well as the vegetable patch, but return to the same conclusion that there is no need for a continuous presence on the farm throughout the year to support the agricultural activity. I understand the difficulties which foxes present and have

¹ Appeal Ref: APP/P3040/A/13/2191142

- noted the theft and vandalism which the Farm has endured. However, I am satisfied that there are suitable sheds and monitoring equipment available which would provide sufficient security for the activities on this land.
24. On the basis of the submitted business plan, the presence of round-the-clock care to support the intensive periods of livestock activity would amount to less than half of the year. I appreciate that these periods require dedicated and long hours caring for the livestock, however I am not convinced that these needs could not be met by alternative means such as the seasonal caravan suggested by the Council.
25. I acknowledge that the setting-out of the labour calculations might not follow accepted practice; however, the farming model does not follow more traditional patterns either. The Council's agricultural consultant report acknowledges that by year 4 the enterprise could sustain labour costs of a full-time worker as well as limited reinvestment.
26. I appreciate that accommodation costs are high in the area close to the Farm, however, it is not clear that the appellant has exhausted all alternative options such as smaller accommodation to suit those needed directly for the intense periods of activity on the Farm. The Council identified some shortcomings in the business plan. However, the appellant has already demonstrated resourcefulness and resilience in bringing the enterprise to the present level. The discrepancies identified would not in my estimation jeopardise the overall effectiveness of the plan as proposed.
27. The appellant has referred to a 2008 appeal decision and a Court of Appeal decision², however, unlike this case, that appeal decision concerned a requirement for a night-time presence extending from January through to October. I note the appeal decision³ in Dorset in 2005 in which the Inspector considered a broad range of factors in assessing functional need, and I have also taken into account factors beyond the requirements to be on-site for kidding and farrowing. However, in the circumstances of this case they do not together amount to an essential, clearly established functional need for a new dwelling to house a full-time worker.
28. As regards the Court of Appeal decision, I give significant weight to the farming model of the appellant. I fully recognise the social and environmental benefits of this enterprise which support the three dimensions of sustainable development. I also note the support given to a prosperous rural economy by the Framework. However, on the basis of the submitted agricultural appraisal, I am unable to conclude that there is an essential, clearly established functional need for a new dwelling to house a full-time worker. I shall return to this matter in my overall conclusion.

Conclusion

29. The proposed development would be inappropriate development in the Green Belt, and would erode its openness and conflict with the purpose of including land within it. The Framework requires that substantial weight be given to any harm to the Green Belt.

² *Petter and Harris v Secretary of State for the Environment, Transport and the Regions and Another* (2000) 79 P & CR 214

³ Appeal Ref: APP/F1230/C/04/1162420,21,22,25

30. I acknowledge the social and environmental benefits of the proposed enterprise and the benefits it would bring to the local economy. I also appreciate that the mobile home would make farming the land less difficult. However, on the evidence before me, I am not satisfied that it has been demonstrated that there is an essential, clearly established functional need for a new dwelling to house a full-time worker. Having considered all matters raised in support of the proposal I conclude that they do not clearly outweigh the harm I have identified in relation to the Green Belt.
31. Accordingly, the very special circumstances necessary to justify the proposed development do not exist. It would be in conflict with CS Policy CS6, DMP Policies DM13 and DM14 and paragraph 55 of the Framework. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

Patrick Whelan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Ruston MRTPI	Ruston Planning Limited
Ms Fernandes	Planning Advisor
Mr Smith	Appellant
Ms Valler	Partner of the appellant
Ms Lally	Butcher and business owner

FOR THE LOCAL PLANNING AUTHORITY:

Mr Bailey	Senior Planning Officer Woking Borough Council
Ms Allen	Rural Planner, Bruton Knowles

INTERESTED PERSONS:

Councillor Bridgeman	Woking Borough Council
Councillor Boote	Woking Borough Council
Dr Hughes	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

From the appellant:

1. Signed statement of common ground
2. Background information on Boyd's Farm
3. Petter and Harris v Secretary of State for the Environment, Transport and the Regions and Another (2000) 79 P & CR 214
4. Letters in support of the appeal

From the Council:

5. Residential property search for rental close to the appeal site
6. Residential property search for purchase close to the appeal site
7. Draft planning conditions
8. Appeal Refs: APP/T3725/A/11/2159250+2159251