
Appeal Decision

Hearing held on 18 July 2017

Site visit made on 18 July 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 31st July 2017

Appeal Ref: APP/H2265/W/17/3171234

Lower Street Farm, Lower Street, Hildenborough, Tonbridge TN11 8PT

- 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 C Bastable of Hall Place Farms against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/16/02510/FL, dated 17 August 2016, was refused by notice dated 17 October 2016.
 - The development proposed is a new dwelling and garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed dwelling and garage in relation to the Green Belt as follows:
 - Whether the proposal is inappropriate development within the Green Belt 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;
 - The effect of the proposal on the visual amenities of the Green Belt and the character and appearance of the countryside;
 - Whether there is an essential functional need for a rural worker to live permanently on the appeal site;
 - 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 to justify the development.

Reasons

Background

3. The appeal site lies within the Metropolitan Green Belt. It is adjacent to several large agricultural buildings that are part of Lower Street Farm. This farm and Leigh Park Farm are part of a wider co-operative partnership that operates a

mixed farm which includes a large milking herd. The proposed dwelling is intended to house a worker whose primary role would be to care for pregnant animals about to calve. The operation of the farms and the functional need for a worker to be located permanently on the site are material considerations that I will return to later.

Whether the proposal would be inappropriate development

4. Paragraph 89 of the Framework states that, other than for a limited number of specific exceptions, the construction of new buildings is inappropriate in the Green Belt.
5. Dwellings for rural workers in agriculture are primarily intended for residential use. Consequently, they are not buildings *for* agriculture or forestry, even though they are intended to support such a use. As the proposal is for new buildings, it does not fall into any of the other exceptions set out in paragraphs 89 or 90 of the Framework. It is therefore inappropriate development. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP3 of the Tonbridge and Malling Borough Council Core Strategy (Core Strategy) pre-dates the Framework. However, it refers to and relies upon national policy in respect of the Green Belt.
6. I therefore conclude that the proposal for a new dwelling and garage would be inappropriate development that would conflict with local and national policy to protect the Green Belt. This is a matter to which I attach substantial weight, as required by Paragraph 88 of the Framework.

Effects on the openness of the Green Belt

7. The Government attaches great importance to the Green Belt, the essential characteristics of which are their openness and their permanence. Openness is the absence of development.
8. The site of the proposed dwelling is part of a field which is accessed by a metal gate. The combination of the dwelling, a detached garage, the driveway and the enclosure of part of the field to create a modest-sized garden, would result in an encroachment of built form into the countryside. Although the house would be a simple design it would be a substantial, two-storey building with a hipped roof, a chimney and two porches. It would therefore be bulky. The house would have an external footprint in excess of 70sq.m, and an internal floor area of 129sq.m. In addition, the double garage would have a pyramidal roof and footprint of 36sq.m. I do not have the overall volume of the proposal as a whole, but it would undoubtedly be a significant scale of development in a previously undeveloped field.
9. In the context of the surrounding countryside the loss of openness associated with the development as a whole would be small. Nevertheless, I conclude that the proposal would be harmful to the openness of the Green Belt and contrary to national and local policy to safeguard the countryside from encroachment. This is a matter to which I attach moderate weight.

Effects on visual amenity and character and appearance

10. The existing buildings at Lower Street Farm are set on slightly higher ground than the surrounding fields. The countryside in the area is characterised by

fields enclosed by hedges, with occasional trees and scattered rural dwellings. The large fields to the east provide views towards the Kent Downs. By contrast the field, of which the appeal site is a part, is enclosed on its western, northern and partially on its eastern sides by mature trees.

11. The site lies immediately to the west of the existing buildings on ground that falls away to the west. It is well screened from the road by a mature hedge. Consequently most of the dwelling would not be visible. The roof would be seen against the backdrop of the existing agricultural buildings. The rectangular shape of the site appears somewhat contrived, effectively taking a corner out of the existing field. However, this would not be apparent from the public realm and, with an appropriate boundary treatment, over time the site could be satisfactorily integrated into its surroundings.
12. The existing access would be enlarged, but would emerge onto the lane at a point where there is already a lay-by and the entrance to the farm. In this context the access would not appear unduly intrusive. Views of the garage would be limited as it would be set back from the road and would be located between the house and the other existing buildings.
13. I therefore conclude that the proposed development would not be harmful to the visual amenities of the Green Belt or the character and appearance of the countryside. In this respect the scheme would comply with Policy CP 24 of the Core Strategy. However, the absence of harm is not a positive factor in favour of the scheme.

Other considerations

a) Functional need

14. Lower Street Farm is part of the Hall Place Farms partnership, which operates over an area of 706 hectares. The farms have 400 dairy cows, 200 young stock and nearly 200 hectares of permanent pasture. A variety of crops are grown across the remaining land, most of which are used to feed the animals. The business has been financially sound for a long time. The Bastables were tenant farmers at Leigh Park for many years. They purchased Lower Street Farm in 2012 and have recently completed the purchase of Leigh Park Farm. They therefore own most of the land which they farm.
15. There are five dwellings at Leigh Park Farm. The farmhouse is occupied by Mr and Mrs Bastable. The others are either occupied by members of the family who are involved in the farm, or other full-time workers. There is a partially derelict oast house which has permission for conversion into holiday cottages. At the time of my site visit some work to implement this scheme had begun.
16. The milking herd and the associated facilities are based at Leigh Park Farm, approximately 1.5 miles from Lower Street Farm. Due to the way in which cows respond to the routine of milking, it is necessary to separate milking from calving cows. As birthing approaches, milking ceases and the dry cows are moved to Lower Street Farm for approximately 8 weeks in order to give birth and recover before being returned to the milking herd. This is fundamental to the successful operation of the herd as a whole. The oast house would therefore not be a suitable alternative location for providing accommodation for a worker to support the operation at Lower Street Farm, even if permission for holiday lets had not been granted.

17. The appellant and his advisers consider it is vital that someone is available at Lower Street Farm at all times for the welfare of both the mothers and the calves. This would help ensure safe deliveries. New calves would also receive suitable attention immediately after birth, thereby securing their long term health. Calving occurs throughout the year, as demonstrated from the figures submitted at the hearing. According to the vet, births most commonly take place between 20.00-04.00 hours.
18. At the moment staff have to make frequent trips to and from the site from Leigh Park Farm. Whilst this is only a five minute journey by car, visits cannot be guaranteed to be timed to coincide with need. This either leads to wasted journeys or not being there when required. Inadequate overnight cover has resulted in the loss of calves and adversely affected the health of at least one mother. Visits are therefore not a satisfactory substitute for being on hand to hear an animal in distress, to provide immediate assistance and to call for additional support if that proved to be necessary.
19. Clear evidence was presented at the hearing to show that Hall Place Farms is a successful enterprise with a growing herd. Although the number of milking herds across Kent has fallen, the herd at Leigh Park Farm has grown from 250 to 400 over the last two decades. Most recent figures showed that the number of births per annum had increased from 357 to 436. This is difficult for the existing family members and workers to manage as it requires frequent visits to Lower Street, including at night time. The evidence also suggested that a total of 9 people working on the farms is barely adequate. It will be necessary to employ additional staff if the enterprise is to continue to grow as planned.
20. The farm also has a flock of sheep which lamb at Lower Street. As lambing is seasonal, round-the-clock care can be provided during those few weeks through a temporary place to sleep, such as a caravan. However, this would not be satisfactory for the cows. The number of calvings and their distribution throughout the year requires someone to be permanently located on the site.
21. Taking all these factors into consideration I conclude that there is an essential need for a rural worker to live at Lower Street Farm. This is justified in order to provide adequate care for a large number of calving cows throughout the year. It would also enable them to support seasonal lambing. These are positive factors in favour of the scheme and are matters to which I attach significant weight.

b) Size of house and garage

22. The worker whose primary responsibility would be to care for the animals at Lower Street Farm will have to be highly skilled. To attract a suitable applicant it would be necessary to provide somewhere for that person to live with his or her family. Provision of a modestly-sized three bedroom house would therefore seem to be appropriate.
23. The proposed dwelling would be a generously proportioned two-storey house. Although the internal layout shows only three bedrooms, the master bedroom has a dressing room which could easily be converted into a fourth bedroom. The other bedrooms are both a good size, well in excess of the minimum size set out in the National Space Standards.

24. On the ground floor the farm office is shown on the opposite side of the house to the utility room and furthest from the farm buildings. This layout therefore does not seem to have prioritised the needs of the agricultural enterprise. Whilst this could be altered without the need for planning permission, it does not demonstrate how the house could be used most effectively to support the care of the nearby animals. Neither the scale of the house, nor its internal layout, convinced me that the proposal had been designed to provide a rural worker with accommodation that would primarily support their role of caring for the animals at Lower Street Farm.
25. A detached double garage is also part of the scheme. I consider this to be excessive, particularly as there would be ample space on the site to park vehicles well away from the road. Whilst I appreciate the need to have a secure place to store some domestic items, such as a lawn mower and bicycles for a family, these requirements cannot be considered essential to the agricultural enterprise. After discussion at the hearing, the appellant agreed that the garage was a luxury that he would be prepared to remove from the scheme. It was also agreed that the exceptional circumstances for removing permitted development rights would be met. This would have enabled me to issue a split decision, and impose a condition removing permitted development rights, if I had found in favour of the remainder of the proposal.
26. My attention was drawn to two other developments for rural worker's dwellings that have been permitted in adjoining districts at Penshurst Road, Bidborough and Hayesden Lane, Tonbridge. Apparently, these were of a similar scale to the proposal before me of about 130sq.m floor area. However, no other details about these schemes were provided and I do not know how they were assessed by the Council. It is therefore impossible to make meaningful comparisons with the current proposal, which I have determined on its individual merits. Consequently, these other schemes carry little weight in my considerations.
27. I conclude that the proposed dwelling is too large with an internal arrangement that fails to support the identified need and the garage is unnecessary. The proposal would therefore be contrary to Policy CP14 of the Core Strategy which requires all development in the countryside to be necessary for the purposes of agriculture or forestry. This is a matter to which I attach considerable weight.

c) Economic benefits

28. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Paragraph 28 of the Framework seeks to promote the development of agriculture. The provision of an additional dwelling would support the continued growth of the existing successful business. It is therefore a matter to which I attach moderate weight.

The Green Belt balance

29. I have concluded that the proposed dwelling would be inappropriate development that would also be harmful to the openness of the Green Belt. It would therefore conflict with national and local policy to protect the Green Belt. These are matters that attract substantial and moderate weight in the overall balance. Although I have found that the proposal would not be harmful to the character and appearance of the countryside or the visual amenities of the Green Belt, this is not a factor in favour of the scheme.

30. From all that I heard and read about the operation of the farm as a holistic enterprise, I am satisfied that there is an essential functional need for a worker to live close to the buildings housing calving animals. A permanent dwelling on the appeal site would address this need. Added to this there would be moderate benefits of supporting the development and growth of the existing agricultural business. Taken together these matters therefore attract substantial weight in the overall balance.
31. However, set against that I have concluded that the scale of the dwelling is out of proportion to the need and there was no justification for the inclusion of a double garage. Even if the garage was removed the development would still be larger than is necessary to support the agricultural enterprise. This reduces the overall weight I can attach to these other considerations to significant.
32. As a consequence, I conclude that the totality of the other considerations in favour of the development, do not clearly outweigh the moderate harm that I have identified to the openness of the Green Belt and the presumption against inappropriate development in the Green Belt to which the Framework requires me to attach substantial harm.

Conclusion

33. The very special circumstances necessary to justify the proposal do not, therefore, exist and for this reason I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Colin Bastable	Appellant
Kate Bastable	Appellant's daughter
Alan Madgwick	Madgwick & Dotteridge
Ben Watts	Kite Consulting LLP
Matthew Dobbs BVMAS, Cert CHP, Dip Law MRCVS	Veterinary Surgeon – West Point Farm Vets
James Osman	National Farmers Union

FOR THE LOCAL PLANNING AUTHORITY

Matthew Broome BA(Hons) Dip UP MRTPI	Senior Planning Officer
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DOCUMENTS SUBMITTED AT THE HEARING

- 1 Proposed dwelling house appraisal and business review – Kite Consulting
- 2 Details of stock numbers including calving pattern
- 3 Letter from Hildenborough Parish Council