



Appeal Decision

Hearing Held on 30 July 2019

Site visit made on 30 July 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/G5180/W/19/3222303

Land Rear of St Helliars, Berrys Hill, Westerham TN16 3AA

- 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 Ms S Tullett against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/04439/FULL1, dated 30 September 2018, was refused by notice dated 23 November 2018.
 - The development proposed is the change of use of land for the siting of mobile home for occupation by agricultural worker.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of the application by the Council the London Borough of Bromley Local Development Framework Local Plan (2019) (LP) has been adopted. The LP has superseded all policies from the Bromley Unitary Development Plan (July 2006). I have therefore determined the appeal with the newly adopted Local Plan in mind.

Main Issues

3. The main issues are:
 - (i) whether the proposal is inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) whether there is an essential need for someone to reside at the site having regard to relevant local and national planning policy;
 - (iv) the effect of the development on the character and appearance of the area; and
 - (v) 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

Whether the proposal is inappropriate development in the Green Belt

4. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 145 and 146, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
5. It is common ground between the main parties that the proposal would not fit into any of the exemptions outlined in paragraphs 145 or 146 and I have no reason to disagree with that view.
6. Given the above, the proposal would be inappropriate development in the Green Belt.

Effect on the openness of the Green Belt

7. The appeal site slopes down along the access drive from Single Street, where it opens out onto a broadly level piece of land where the mobile home would be sited. Beyond this parcel of land, the appeal site drops sharply and then continues to fall to the rear boundary with St Heliers.
8. One of the five purposes of a Green Belt, outlined at paragraph 134 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
9. The site is largely undeveloped land with a small polytunnel being the only notable structure on the site. The introduction of a mobile home (and the associated paraphernalia which would result from a domestic property) would introduce a new structure which would inevitably lead to the loss of openness. This is particularly the case as the site has very little buildings or structures on it and the proposal would introduce a mobile home which would be around 13 metres in length and 6.7 metres in width.
10. Whilst the main part of the site is not readily visible from public vantage points owing to its location, together with the surrounding tree coverage and other residential properties, this does not overcome the loss of openness.
11. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework, Policy 7.16 of the London Plan (2016) and Policy 49 of the LP which amongst other matters seek to protect the Green Belt from inappropriate development.

Essential Need

12. The Council determined the proposal on the basis that it was for a permanent agricultural workers' dwelling. Following the adoption of the LP it considered that Policy 64 was the most relevant policy in this respect. However, as discussed at the hearing, the Appellant has not sought a permanent agricultural workers' dwelling. The application documentation also referred to it being a temporary dwelling. It was therefore agreed that Policy 65 of the LP was the most relevant.
13. Policy 65 sets out that for a temporary agricultural workers' dwelling to be acceptable the Council will require is clear evidence of a firm intention and ability to develop the enterprise concerned, that there is a functional need, that

the functional need could not be fulfilled by any other accommodation in the area, clear evidence that the proposed enterprise has been planned on a sound financial basis and that the size of the dwelling is commensurate with the established functional requirement (together with compliance with all other planning requirements).

14. Following discussions at the hearing it is common ground between the main parties that there is clear evidence in relation to the intention to develop the horticultural business and I have no reason to disagree with that view.
15. From the evidence before me the Appellant purchased the appeal site in October 2017 and the horticultural business has been operating for around 3-4 years. The Appellant initially operated the business on a part-time basis, but for around 2 years this has been on a full-time basis.
16. The business itself is essentially an internet-based mail order operation, and customers can order seeds and plants on-line for delivery. The operation of the business includes the propagation/growing of plants. This is currently undertaken partially from the appeal site and partially from the Appellants current residence, although it is understood that this property will be unavailable for the Appellant to live and use for such a purpose in the not too distant future. The intention is therefore to move the business to the appeal site in its entirety.
17. In terms of the functional need to live at the site, it is submitted that the business is very specialist, and there is a need to be on-site as the plants are prone to aphids, there are different growing temperatures required (which needs monitoring), there is a need for the maintenance of irrigation equipment and watering of plants, problems in inclement and unpredictable weather which can result in damage to stock and poly-tunnels, animals such as deer gaining access to the site and damaging stock/equipment and in relation to security concerns.
18. It is also submitted that living off site would result in the Appellant not being able to deal with any issues immediately as there would be a delay in getting to the site owing to the length of travel time even if other measures to deal with these issues were installed. Furthermore, it has been indicated that the Appellant cannot afford to purchase a property in the area and there are no affordable rental properties available either.
19. It is clear to me that during normal daylight/working hours any issues which could arise are capable of being addressed without the need to be living at the site. This is evident from the indicated levels of activity required to look after the plants as the Appellant or an employee would be on site in any case. Therefore, I consider it is during the non-working/evening/overnight periods where any such functional need could be generated.
20. That said, I find that the main reasons why equipment and plants may be damaged in such periods would be down to inclement weather or by animals such as deer, gaining access to the site.
21. However, having an awareness of the likely weather conditions and taking suitable precautionary measures should largely mitigate the risks associated with the British weather. As such, I find this does not provide a compelling reason to justify even a temporary dwelling at the site.

22. At my site visit I observed that the boundaries to the site had gaps in it particularly at the lower end of the site. Whilst it is not clear where animals such as deer gain access, to my mind, improved boundary treatment would be likely to go some way to addressing this issue.
23. I am also conscious of the security aspects of the site. However, I saw that a large part of the boundaries of the appeal site are shared with existing residential properties. The other parts are with the undeveloped land to the north of the access drive which has a dense landscape coverage. It also has a substantial timber fence along the boundary to it. In addition to the above, there are various security measures which could be put in place, such as motion sensors and CCTV cameras linked to any location which could alert someone in the event of an incident.
24. I acknowledge that it would be clearly advantageous for the Appellant to be living at the site where the plant propagation occurs as this would remove travel time and costs. However, to my mind, there is little justification provided with demonstrates that this would need to be on the appeal site itself.
25. The Appellant has stated that other properties in the area are not affordable, although little evidence has been provided to demonstrate this. At the hearing, the Council suggested that less expensive housing is located in areas such as Biggin Hill which I understand it is only a few miles away from the appeal site.
26. Whilst I appreciate the difficulties faced by self-employed persons in gaining a mortgage or being considered for rental properties, I consider that this in itself does not provide an adequate reason to justify the proposal before me.
27. In respect of the financial basis of the business, very little information has been submitted within the application or appeal documentation. I note that the rural workers justification statement indicates that there could be the potential for at least £19,950 to be made from the selling of plants. However, there is no evidence submitted which provides any detail on this, nor is it clear whether this would be a profit or a gross sales value.
28. Furthermore, the business has been operating for at least three years and therefore it would have been helpful to have sight of actual accounts and/or a business plan for future years. Whilst the business is still in its infancy, this would have at least been helpful to ascertain whether the business has a sound financial basis to support a temporary agricultural workers' dwelling. In the absence of such information, I can only conclude that the requirements of Policy 65 have not been met.
29. Turning to the size of the mobile home, this would have two bedrooms and a sizeable living area. It also includes an internal lobby from the front door and an internal hall/circulation space area. Whilst the Appellant explained at the hearing that the size was not the largest mobile home permissible, and that the second bedroom is required for a family member to stay over (or possibly move into in future years), in the absence of the functional requirement being demonstrated it is unclear whether the size of the mobile home is excessive.
30. In addition to all of the above it is clear that it would be beneficial to have some welfare facilities at the site for the comfort of anyone working there. However, the provision of such a mobile home is not the only way to achieve this and I therefore give this very limited weight.

31. Taking all of the above into account, none of the above factors (either individually or cumulatively) demonstrate that there is an essential need for a rural worker to reside at the site. The proposal is therefore contrary to Policy 65 of the LP which sets out the criterion for the acceptability of temporary agricultural workers' dwellings.

Character and appearance

32. The appeal site is located in a semi-rural area given the existing development in the vicinity of the site both on Single Street and Berrys Hill. Existing properties in the area are scattered and generally follow the road network with no identifiable pattern of development.
33. As I understand it, the site lies outside of any defined development boundary and as such, in planning policy terms, is located in the countryside. National and local planning policies indicate that the intrinsic beauty of the countryside should be recognised.
34. It is clear to me that the proposal would have an undesirable urbanising effect on the local landscape by the introduction of the mobile home. This is particularly the case given the open undeveloped nature of the land.
35. In coming to that view, I acknowledge that the level of harm cannot be considered to be significant. Nevertheless, it would result in some harm to the semi-rural character and appearance of the area and there is insufficient information provided to justify the proposal for an agricultural/rural workers' dwelling even on a temporary basis.
36. For the above reasons the proposal would harm the semi-rural character and appearance of the area contrary to Policy 7.4 of the London Plan and Policy 37 of the LP which amongst other matters seek to ensure that development creates a positive relationship with the urban structure and natural landscape features and should positively contribute to the existing landscape. It would also be at odds with the natural environment aims of the Framework.

Other matters

37. I have also had regard to the matters raised in the representations on the application and the appeal. This includes concerns raised over the access and highway safety, the effect of the proposal on the living conditions of the occupiers of adjoining dwellings with particular regard to the location of the refuse store and on overlooking/privacy, and in relation to the boundary of the site.
38. However, none of these factors provide a compelling reason why planning permission should not be granted as any planning concerns arising from these issues could be addressed by means of suitably worded planning conditions should I be minded to allow the appeal.

Green Belt balance

39. I have concluded that the proposal would be inappropriate development and would have an adverse effect on openness. It would also have some harm to the character and appearance of the area. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore,

substantial weight should be given to harm to the Green Belt. Very special circumstances to justify inappropriate development 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.

40. Whilst the need for an agricultural/rural workers dwelling could provide the very special circumstances necessary to justify the proposal, it is significant in this case that I have found that insufficient evidence has been provided in relation to the need for a such a dwelling even on a temporary basis.
41. In addition to the above, it has been indicated that the Appellant maintains and is due to be holding the National Collection of Verbascum for the Royal Horticultural Society. Whilst this weighs in favour of the proposal, I can only give this limited weight.
42. Taking all the above factors into account, and in consideration of the substantial weight given to the Green Belt, to my mind the benefits outlined above do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal would conflict with the Framework, Policy 7.16 of the London Plan and Policy 49 of the LP.

Conclusion

43. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nikolas Antoniou	NJA Town Planning Limited
Robert Gifford von Schiller	Rural Planning Consultant
Ms S Tullett	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

David Bord	Principal Planning Officer
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INTERESTED PARTY:

Terence Mold

DOCUMENT submitted at the Hearing

1. Copy of Policy 65 of the LP.