The Planning Inspectorate

Appeal Decision

Site visit made on 3 September 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/C2741/W/19/3230969
Beetle Bank Farm, Moor Lane, Murton, York YO19 5XD

- 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 Angela Serino against the decision of City of York Council.
- The application Ref 18/01571/FUL, dated 5 October 2018, was refused by notice dated 21 December 2018.
- The development proposed is change of use of land for the temporary siting for 2 years of a static caravan, construction of earth bunding and associated facilities for use as a combined animal hospital/accommodation and living accommodation for the owner's family and construction of earth bunding.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have substituted the description of development given by the appellant for that used by the Council in the Decision Notice, which summarises the development more succinctly. I note that the appellant has used the Council description in the appeal form.

3. Section 55 of the Town & Country Planning Act 1990 (as amended) defines "development" as including "the making of any material change in the use of any building or other land". I have not therefore used the term "retrospective" in the banner heading above as it is not an act of development

Main Issues

4. The main issues are:

    - whether the proposal would be inappropriate development in the Green Belt;
    - the effect of the development on both the openness of the Green Belt and the character and appearance of the area; and
    - if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it; and
    - The effect of the development on flood risk.

Reasons

Inappropriate development

5. The static caravan is shown to be part residential accommodation and part animal hospital, and is occupied by the appellant's son and partner, who are both work at the Farm. The appeal statement refers to the development being for a two year period, beyond which the caravan would be removed, or an application made for 'something more permanent'.

6. The appellant considers that the proposal is not inappropriate development within the Green Belt, given the temporary nature of the proposal.

7. Temporary permissions for residential accommodation in the countryside are usually sought when an agricultural enterprise is establishing itself, and long term viability is an issue. Whilst the visitor attraction use was granted in 2013 as a means of farm diversification, the use of the caravan was not part of the agricultural holding. As a result, the criteria set out in Paragraph 145 of the National Planning Policy Framework (the Framework) is not met.

8. Paragraph 146 of the Framework states that material changes of use of land can be acceptable, provided that it preserves the openness. The presence of the static caravan and landscape bunding means that the development would facilitate a semi-permanent, or permanent loss of openness, and as such, the proposal does not meet the criteria set out in Paragraph 146, and as a result, the proposal would constitute inappropriate development in the Green Belt.

Openness & character and appearance

9. Paragraph 133 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence.

10. Within the corner of the appellants landholding, there is the static caravan, a number of sheds and hutches, as well as fencing. I found that corner of the landholding to be quite intensively used, and not exhibiting an open appearance. Even on a temporary basis as requested, the appeal site area contributes to a localised reduction in the openness of the landholding.

11. The appeal site is physically separated from the main farm area and has its own access. From my site visit, it is apparent that the trees adjacent the site allow the appeal site to be screened in addition to the landscape bund. However, there are views from the northern and eastern directions, and as a result, the proposal is visible from those directions. As stated previously, this facilitates a semi-permanent loss of openness, and the Green Belt is not safeguarded from encroachment. Whilst this harm to openness would be quite localised, it is nonetheless a factor that I consider attracts moderate weight.

12. Openness has both a visual and a spatial dimension. In visual terms, the static caravan is set away from the highway and would be partially screened by the high vegetation and the engineered bund. However, it would still have some visibility from vantage points and would therefore have some visual impact on the openness of the Green Belt. Moreover, as the surrounding land is relatively rural in nature, by reason of its siting and volume, the static caravan reduces the spatial aspect of the site.

13. On this issue, I conclude that the harm to the openness of the Green Belt adds to the harm caused by reason of inappropriateness, and therefore the appeal proposal conflicts with the Green Belt guidance in the Framework, and despite the limited weight it can be afforded due to the fact it has yet to be formally adopted, it also would conflict with Policies D1 and D2 of the City of York Local Plan Publication Draft (2018), which, amongst other matters, state that development should conserve, enhance and compliment the character and appearance of the landscape.

Other Considerations

14. The appellant considers there is a functional need for the residential presence on site but cannot provide accommodation in the main farmhouse due to issues with that building. As a result, it is unclear what would happen at the end of the two year period requested, and national policy on temporary permissions set out in the Planning Practice Guidance (PPG) states that a second temporary permission will rarely be justified.

15. In addition to the above, I am not in possession of any evidence to justify the position in relation to the main farmhouse in terms of the issues that could prevent accommodation being available or made available. As a result, I can only give minimal weight to this argument.

16. Whilst it may be desirable to be resident on site to provide care for the animals in question, I have no evidence to suggest why the ancillary nature of this part of the farm diversification requires a 24/7 presence on site, including that of a relative that has no direct involvement in the animal welfare aspect of the overall site. I have noted the requirement to deal with animal welfare issues, but this relates to other legislation, and does not constitute very special circumstances to allow the continued occupancy of the static caravan.

17. For the reasons given above, I find the matters raised by the appellant in support of the development does not outweigh the substantial harm to the Green Belt by reason of the inappropriate development, and the harm cause to the Green Belt's openness. I consider that the harm could not be overcome by reasonable planning conditions, including the temporary nature of the appeal proposals.

Flood Risk

18. Paragraph 163 of the Framework states that development should ensure that flood risk is not increased elsewhere. Concerns have been raised by the internal drainage board that suggest that there is a wider issue in relation to the site as a whole, and that the surface water from the site has the potential to exacerbate the existing situation.

19. I have noted the drainage details that have been submitted with the Statement of Case by the appellant. However, it would appear that this information was not submitted to the Council at the time of the planning application and was been submitted at a later date. As the Council do not appear to have had the opportunity to comment or carry out consultation on the proposals, and in accordance with the principles established in the Wheatcroft judgement *(Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council (1980))* I do not consider that it would be appropriate to take the proposals into consideration.

20. Therefore, I am unable to conclude that the appeal site represents an appropriate location for residential development, with particular reference to flood risk. Therefore, I find that the proposal is contrary to Paragraph 163 of the Framework as it relates to the possibility of increased flood risk elsewhere.

Conclusion

21. The Framework indicates that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Although I find that the considerations advanced by the appellant can be given limited weight in favour of the proposal, they do not outweigh the identified harm to the Green Belt and as a result, no very special circumstances exist to justify the development in Green Belt terms.

22. It would conflict with the Local Plan Publication Draft, albeit the limited weight that can be given to it, as well as the Framework as a whole and there are no other material considerations that warrant determining the appeal otherwise.

23. Therefore, the appeal is dismissed.

Paul Cooper

INSPECTOR