



Appeal Decisions

Hearing Held on 17 September 2019

Site visits made on 16 September 2019 and 17 September 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2019

Appeal A: APP/T0355/W/18/3216170

Land north of Coningsby Lane, Fifield, Maidenhead, SL6 2PF

- 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 Mrs Helen Kendall Smith against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/02513/FULL, dated 26 August 2018, was refused by notice dated 24 October 2018.
 - The development proposed is construction of permanent essential worker's dwelling, new access and track with entrance gates, hardstanding and new boundary treatment.
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Appeal B: APP/T0355/W/19/3227886

Land north of Coningsby Lane, Fifield, Maidenhead, SL6 2PF

- 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 Mrs Helen Kendall Smith against Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/03324/FULL, is dated 13 November 2018.
 - The development proposed is a rural worker's dwelling.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and planning permission for a rural worker's dwelling is refused.

Applications for costs

3. An application for costs was made by Mrs Helen Kendall Smith against Council of the Royal Borough of Windsor and Maidenhead for both Appeal A and Appeal B. These applications are the subject of a separate Decision.

Main Issues

4. Appeal A was submitted following the refusal of planning permission by the Council. Appeal B was submitted following the Council's failure to give notice of

its decision within the prescribed period. The Council has provided putative reasons for refusal for Appeal B in its statement of case.

5. On the basis of those putative reasons for refusal given for Appeal B, and the reasons for refusal set out on the Council's decision notice for Appeal A, the main issues 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 (**Appeal A** and **Appeal B**);
 - the effect of the proposed development on the openness of the Green Belt (**Appeal A** and **Appeal B**);
 - the effect of the proposed development on the character and appearance of the appeal site and its surroundings (**Appeal A** only); and
 - whether the harm by reason of inappropriateness, and any other harm, would clearly be outweighed by other considerations and, if so, whether this would amount to the very special circumstances necessary to justify the proposal (**Appeal A** and **Appeal B**).

Reasons

Background

6. The rural worker's dwelling is proposed as part of the relocation of the appellant's alpaca breeding enterprise from an existing site in Gloucestershire where it has been based since late 2012, although the appellant started farming alpacas on a pre-existing farm several years before that. The appellant also breeds draught horses and keeps a small number of sheep, as an ancillary part of the alpaca business.
7. The appellant and her family have occupied a temporary dwelling at that existing farm since 2012, and received permission for a permanent dwelling on that site in 2015. However, between those dates, the farm was identified as lying within a Military Explosives Safety Zone (MESZ), within which development is restricted. Due to the implications which subsequently came to light in relation to mortgaging and insuring a permanent dwelling, and for the construction of further buildings and thus any future expansion of the enterprise on that site, the appellant took the decision to relocate.
8. The appellant has received planning permission for a number of buildings on the appeal site and confirmed at the hearing that, whilst having a slightly larger footprint overall, those permitted buildings would replicate the functions of equivalent buildings on the existing farm in Gloucestershire. The appellant also confirmed that the enterprise would operate in exactly the same way on the appeal site as it currently does on that existing site, including with regard to the number of animals and the day-to-day operations on the farm.

Whether the proposal would be inappropriate development in the Green Belt – Appeal A and Appeal B

9. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, except in certain specified circumstances. Those exceptions include buildings for agriculture. However, whilst the

proposed dwelling would be associated with a farm, its purpose would be residential, not agricultural. Therefore, and as none of the other exceptions in the Framework would apply, the proposed development would constitute inappropriate development having regard to the Framework.

10. Policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan (the Local Plan) states that within the Green Belt approval will only be given, save in very special circumstances, for certain specified types of development. Those include residential development where there is a proven need for a new dwelling to be provided ancillary to an existing agricultural use on the site, subject to certain criteria, set out in Policy GB3 of the Local Plan.
11. The general presumption against inappropriate development in the Green Belt in Policies GB1 and GB3 is consistent with the Framework. However, those policies pre-date the Framework, and their provisions are not wholly consistent with it, since the Framework does not include agricultural or rural workers' dwellings in the list of exceptions to inappropriate development. Consequently, insofar as they relate to the definition of inappropriate development in the Green Belt, I attach limited weight to those Local Plan policies, and greater weight to the Framework as a material consideration in this case.
12. Policy SP5 of the emerging Royal Borough of Windsor & Maidenhead Borough Local Plan 2013-2033 (the emerging Local Plan) makes provision for the development of new agricultural and forestry workers' dwellings in the Green Belt. However, at the hearing the Council confirmed that examination of the emerging Local Plan has been paused pending further work, and that there are remaining unresolved objections to Policy SP5. Therefore, and as those exceptions in Policy SP5 are not wholly consistent with those in the Framework, I afford the emerging policy little weight.
13. Therefore, in determining whether the proposal would be inappropriate development in the Green Belt, I afford greater weight to the Framework as a material consideration than to the development plan or emerging policies. Accordingly, having regard to the Framework, I conclude that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt, and which should not be approved except in very special circumstances.

Effect on openness – Appeal A and Appeal B

14. An essential characteristic of Green Belts is their openness, which can have a spatial and visual dimension. Although permission has been granted for a number of agricultural buildings on the site, works to construct them have not yet commenced and, at present, the site lies within an open field which is enclosed by hedges and some timber fencing, but which is free from built form.
15. Although the upper floor of the dwelling proposed in Appeal A would be partly in the roofspace, it would still appear as a two storey building which would be taller than any of the agricultural buildings which have been permitted on the site. As a result of its height and its relatively large footprint, the proposed dwelling would have a significant volume, and therefore a significant effect on the spatial openness of the Green Belt.

16. The dwelling proposed in Appeal B would be lower, but would still have a relatively large footprint and a significant volume and, consequently, would also significantly erode the spatial openness of the Green Belt.
17. The wider field within which the site is located is enclosed by hedges, some of which are quite high. Nonetheless, I observed that the site and its existing open surroundings can be viewed from Coningsby Lane through the gap in the frontage vegetation where a new entrance to the site has recently been created, and from the public footpath to the south west which runs towards the existing canter track from Coningsby Lane. Views towards the site also exist from footpaths beyond the adjacent field to the north and north east.
18. Even were the permitted agricultural buildings constructed, the Appeal A dwelling would be taller than them. Its height and volume, and thus its erosive effect on openness, would therefore be clearly evident from those surrounding vantage points. At a lower height, the Appeal B dwelling may be screened by the permitted buildings in views from the north. However, it would still be clearly evident as a distinct structure, separate from those buildings, in views from Coningsby Lane and the footpath to the south west. In the case of both Appeal A and Appeal B, the proposed dwelling would therefore detract from the visual, as well as the spatial, openness of the Green Belt.
19. The development would also include parking for the proposed dwelling, and a garden, with the potential for other domestic paraphernalia such as washing lines and garden furniture. As well as increasing the volume of built development on the site, in both Appeal A and Appeal B the proposal would therefore also result in the encroachment of development into the countryside, contrary to one of the purposes of including land within the Green Belt, as set out in the Framework.

Character and appearance – Appeal A

20. In the absence of any existing buildings on the site, the construction of the proposed dwelling in an open field, set back from the road frontage, would not reflect the character and pattern of existing housing on Coningsby Lane. However, even if the other permitted agricultural buildings had been constructed, the proposed dwelling would be around 2m taller to the ridge than the highest of them. Furthermore, whilst those other permitted buildings would be located relatively close to one another, the proposed dwelling would be positioned further away and, I consider, would appear slightly detached from that group of permitted buildings.
21. As a result, the proposed dwelling would appear as an unduly dominant feature which would be out of scale with the other buildings proposed, and would appear somewhat separate and distinct from them, rather than an integrated part of that wider farm complex. Therefore, and given its otherwise open surroundings and its separation from other nearby dwellings, I conclude that the proposed dwelling would result in an incongruous form of development in this open countryside location, and would cause harm to the character and appearance of the appeal site and its surroundings. The proposal would therefore conflict with Policies DG1, H10, H11 and GB2 of the Local Plan which, amongst other things, state that permission will not be granted for new development if it would harm the character of the countryside because of its scale or siting, and require the design of new buildings to have regard to the scale and height of adjacent properties and retain important views.

22. Those policies are consistent with the Framework, which states that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting.
23. I have also had regard to emerging Local Plan Policy SP3, which has similar objectives to those of the Local Plan policies referred to above, in requiring development to respect the local character of the environment, and which is thus also consistent with the Framework in that regard.

Other considerations

24. Policy GB3 of the Local Plan makes provision for residential development in the Green Belt where there is a proven need for a new dwelling to be provided ancillary to an existing agricultural use on the site. Whilst not consistent with the Framework in terms of the exceptions to inappropriate development, Policy GB3 anticipates the likelihood of proposals for such dwellings coming forward in a district which, I was advised, contains a large amount of designated Green Belt. In that context, I afford Policy GB3 some weight insofar as it identifies circumstances in which such development might be considered acceptable, and criteria for considering such proposals.

Need for a rural worker to live on site

25. The Council has confirmed that, based on the size and nature of the enterprise on the appellant's existing farm in Gloucestershire, it considers that there is an essential need for a rural worker to live permanently on site in association with that enterprise. On the basis of all that I have heard and read regarding the number of animals and the way that the enterprise operates at the existing farm, and as the appellant has confirmed that it would operate in exactly the same way on the appeal site, I agree. That essential need arises, in part, from the need for a worker to be on site and within sight and sound of the animals 24 hours a day to identify and respond to health problems or emergencies. Therefore, I agree that the worker needs to live on the site itself and that other houses in the locality, including elsewhere in Fifield, would not be suitable to meet the needs of the particular enterprise proposed.
26. Whilst the essential need relates only to one rural worker, it is not unlikely that such a worker, running an agricultural enterprise, would have a family. The appellant advised that members of her family help out with aspects of the business from time to time. However, even were that not the case, it would be unreasonable to expect a rural worker living permanently on the site to reside there alone whilst their family lived elsewhere. Therefore, in considering whether any rural worker's dwelling on the site is commensurate with the requirements of the enterprise, I have taken account of the needs of a rural worker and their family, rather than just a single occupant.
27. In that context, and as an average family living at the site may conceivably include a couple with 2 or 3 children, I agree with the Council that a 4-bedroom dwelling would not be disproportionate to the needs of the proposed rural enterprise. Nor would it be unreasonable for the accommodation to be of a size and nature which would provide for a family of that size.
28. The house proposed in Appeal B would have 4 bedrooms, an open-plan kitchen/dining area and an adjoining lounge, none of which appear larger than is necessary to accommodate the furniture and circulation space associated

- with a family of 4 or 5 people. The proposed utility room, downstairs WC and office are all facilities which I consider reasonable to meet the administrative and functional needs of an agricultural enterprise. Overall therefore, I consider that the Appeal B dwelling would be of a size commensurate with the needs of the holding, and with a rural worker and their family living on that holding.
29. The house proposed in Appeal A would also have a ground floor toilet/wet room, utility room/cloak room/gun store, and an office, all of which would be necessary and reasonable to cater for the needs of the enterprise. The open plan kitchen and dining area would not be larger than is necessary to accommodate a family of 4 or 5 people, and bedrooms 2, 3 and 4 would not be larger than necessary to accommodate a bed, chest of drawers and wardrobe. Bedroom 1 and the ground floor sitting room would be on the large side. However, it is not unreasonable for the dwelling to have that fourth bedroom or a separate sitting room and, having regard to the size and nature of the accommodation proposed overall, those two areas are not so large or disproportionate as to justify withholding permission on those grounds.
30. Drawing those threads together, I conclude that there would be an essential need for a worker to live permanently on-site in association with the enterprise which is proposed to operate on the appeal site, and that the dwellings proposed in Appeal A and Appeal B would not be disproportionate to the reasonable needs of such a worker and their family or, consequently, those of such an enterprise.

Financial viability of the enterprise

31. On the basis of accounts and financial information provided by the appellant, the Council has confirmed that it considers the existing enterprise, as it operates on the existing farm in Gloucestershire, to be financially viable. On the basis of the evidence before me, and noting that the appellant has received planning permission for a permanent dwelling on that existing farm having lived there in a temporary dwelling for several years during its establishment, I have no reason to disagree with the conclusion that the business as it operates currently is financially viable and capable of supporting a permanent dwelling. The appellant confirmed that the capital within their current site would be sufficient to cover the costs of constructing the proposed dwelling and the other buildings proposed, and I heard no compelling evidence to suggest otherwise.
32. The appellant has confirmed that the enterprise would operate in exactly the same way on the appeal site as it does on that existing site. She also set out that its customer base is national in nature, making reference at the hearing to customers travelling from some significant distance away to purchase animals, and has a number of returning customers, none of which has been disputed with reference to any substantive evidence.
33. The appeal site is very well located with good access to the transport network, including several motorways nearby, and I have no reason to believe that its location would present a significant constraint in terms of customer accessibility compared to the existing site in Gloucestershire. Given those excellent transport links, and as the enterprise is not reliant on a local customer base, I consider it unlikely that its relocation to the appeal site would have significant implications in that regard.

34. Reference was made at the hearing to instances of flooding on Coningsby Lane and waterlogging of parts of the site at times. In proposing works to treat and remediate areas where the soil has been 'poached'¹ by horses which have been and are currently kept on the site, it is clear that the appellant has had regard to potential issues in that regard, and taken steps to address them. However, in any event, the appellant advised that, if flooding to the extent suggested by interested parties did occur, the alpacas could be moved indoors to the buildings which have already received permission at the site. That was not disputed with reference to any substantive evidence.
35. It is common ground between the main parties that the site is located within Flood Zone 1, and the Council confirmed at the hearing that the proposed development raises no flood risk concerns. My attention has also been drawn to recent works aimed at improving drainage within the ditches in the vicinity of the site. On that basis, and having regard to the remedial measures and the animal accommodation proposed by the appellant, I am not convinced that flooding would represent a significant constraint to the enterprise's future viability as has been suggested.
36. The appellant confirmed that the existing farm is close to an airfield, and that the animals would not be affected by noise from planes taking off or landing at nearby Heathrow airport. I have no reason to conclude otherwise based on the evidence before me. Nor have I been presented with substantive evidence to support the suggestion that hay and feed costs would be substantially higher at the appeal site compared with those in Gloucestershire. I therefore have no reason to conclude that such costs would have significant implications for the business's viability.
37. The appellant has been farming alpacas for over 10 years, and evidently has considerable experience in their keeping, breeding and welfare. Having regard to that experience, and the evidence before me, I consider that the appellant has taken reasonable steps to select a site which would be suitable for that use to continue, to secure permission for the buildings necessary to house the animals, and to mitigate or address issues which may occur, including those raised by interested parties. Therefore, from all that I have heard and read, I am satisfied that there is sufficient likelihood of the enterprise's ongoing success as to represent a justification for a permanent dwelling if it were to be established on the site as proposed.

Whether there is justification for a permanent dwelling on the appeal site

38. The appellant and her family have occupied a temporary dwelling for over 5 years, and I recognise the constraints associated with that dwelling with regard to its size and layout. For the reasons given, I consider that there is an essential need for a worker to live permanently on-site in association with the appellant's existing enterprise, and I am satisfied that there is adequate evidence to suggest that existing enterprise would remain sufficiently viable to support a permanent dwelling were it to be established on the site as proposed.
39. However, whilst relevant conditions may have been discharged in relation to the other buildings permitted on the site, and the initial section of the access road has been laid out, works to construct those buildings have not commenced. As a matter of fact therefore, the proposed agricultural use, and

¹ Described by the appellant as the treading of the soil to the extent that pools of water form in their hoof prints.

thus the justification for that associated rural worker's dwelling, does not exist on the appeal site at present. The proposed development would therefore conflict with Local Plan Policy GB3, which makes provision for such dwellings in the Green Belt only where there is a proven need for them to be provided ancillary to an *existing* agricultural use *on the site*.

40. A condition preventing occupation of the proposed dwelling until the animals were all on site would be unreasonable, since it is deemed to be necessary in the interests of the safety and welfare of those animals. The appellant suggested that permission could be granted subject to a condition preventing the dwelling's occupation until the other permitted buildings had been completed. However, in the absence of the animals, the existing agricultural use, and thus the justification for a dwelling on the site, would not exist even were the buildings to be completed.
41. Accordingly, as the associated enterprise does not exist on the appeal site, in the current circumstances, and having regard to the relevant development plan policy, I afford that enterprise little weight as justification for the inappropriate development of a dwelling in the Green Belt, or in the balance against the significant harm to the Green Belt that would arise from that inappropriate development.
42. Paragraph 79 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work. However, whilst the appeal site is located within what is currently an open field, it is very close to other dwellings on Coningsby Lane to both the east and the west, and is not so physically separate or remote from other development within Fifield as to be isolated for the purposes of the Framework. The criteria in Paragraph 79 therefore do not apply in this case, and do not represent a material consideration that would outweigh development plan Policy GB3.
43. Policy SP5 of the emerging Local Plan also makes provision for new agricultural workers' dwellings in the Green Belt. However, given the current status of the emerging Local Plan and as there are unresolved objections to Policy SP5, I afford it little weight.

Other matters

44. The Council accepted at the hearing that it is unable to demonstrate a 5 year supply of deliverable housing land. However, paragraph 11 and footnote 6 of the Framework make it clear that land designated as Green Belt is a specific policy in the Framework that protects an area or asset of particular importance and provides a strong reason for refusing the development proposed. Given the harm to the Green Belt that I have identified, the presumption in favour of sustainable development in paragraph 11 is not engaged in this case, notwithstanding the 5 year housing land supply position.
45. The absence of a 5 year housing land supply and the need for local housing are still matters to be weighed in the overall planning balance. However, the contribution to local housing supply from the single dwelling proposed would be very modest, and I afford it only limited weight in support of the development.
46. Permission has been granted for a permanent dwelling on the appellant's existing farm in Gloucestershire. However, as well as being in a different

district and not within the Green Belt, I also cannot be certain, from the evidence before me, that it is directly comparable to the appeal site in terms of its layout and the character and appearance of the wider area. Furthermore, the enterprise with which the proposed rural worker's dwelling would be associated does not exist on the appeal site as it does on that other site. Therefore, the circumstances in that case are not directly comparable to those in the appeal before me which, in any event, I have considered on its own planning merits.

47. On the basis of the evidence before me, I have no reason to conclude that the single dwelling proposed in either appeal would have adverse implications for the local highway network, protected trees, or biodiversity. The Appeal B dwelling would be comparable in height to other permitted buildings, and located sufficiently close to them as to appear as an integrated part of the wider proposed farm complex, and would therefore not cause harm to character or appearance. However, the absence of harm in those respects is neutral, rather than a factor weighing in favour of either appeal scheme.

Planning Balance

48. The Government attaches great importance to Green Belts. Therefore, substantial weight should be given to any harm to the Green Belt when considering any proposal for development within it. In the case of both Appeal A and Appeal B, I have found harm to the Green Belt by reason of the proposed development's inappropriateness, to the openness of the Green Belt, and to the purposes of including land within it. In the case of Appeal A, I have also found harm to character and appearance. Balanced against that are the other considerations set out above. However, for the reasons given, and in the absence of an existing rural enterprise on the appeal site, those do not clearly outweigh the harm to the Green Belt.
49. Therefore, very special circumstances necessary to justify the development do not exist. I therefore conclude that the proposed development would conflict with the Green Belt protection aims of Local Plan Policies GB1, GB2 and GB3, and with those of the Framework.

Conclusions

50. For the reasons given above, Appeal A is dismissed.
51. For the reasons given above, Appeal B is dismissed and planning permission is refused.

Jillian Rann
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Helen Kendall Smith	Appellant
Tom McArdle BSc (Hons) MRICS	Pike Smith & Kemp Rural
MNAEA	

FOR THE LOCAL PLANNING AUTHORITY:

Haydon Richardson MSc TCP	Royal Borough of Windsor and Maidenhead
Susan Sharman BA (Hons) MSc	Royal Borough of Windsor and Maidenhead
TCP MRTPI	

INTERESTED PERSONS:

Nicola Marsh	Parish Councillor
Julie-Ann Glover	Parish Councillor
Patricia Cuss	
Karl Burt	
Stella Burch	

DOCUMENTS SUBMITTED DURING THE HEARING

1. Letters from appellant's accountant to planning officer, Royal Borough of Windsor and Maidenhead, dated 24 January 2018 and 12 March 2018.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Location Plan for Appeal B
2. Appellant written agreement to pre-commencement conditions.