



Appeal Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/P2935/W/19/3232803

West Thorn Farm, West Thorn, Kirkley NE20 0AG

- 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 M F Hall against the decision of Northumberland County Council.
 - The application Ref 18/02699/FUL, dated 23 July 2018, was refused by notice dated 1 February 2019.
 - The development proposed is 1 no. agricultural worker's dwelling and associated parking, access and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for planning permission for 1 no. agricultural worker's dwelling and associated parking, access and amenity space at West Thorn Farm, West Thorn, Kirkley NE20 0AG in accordance with the terms of application reference 18/02699/FUL, dated 23 July 2018, subject to conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by M F Hall (Mr R Alder) against Northumberland County Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant's questionnaire makes reference to a withdrawn appeal. This relates to an earlier version of this current appeal which was resubmitted with a change of appellant name only. This has no bearing upon the case before me.
4. The plan reference numbers listed by the Council within their suggested conditions were incorrect. The correct plan reference numbers and titles are: Location Plan ALN510492 - 01 Rev A; combined Block Plan (1:500) and Location Plan (1:1250); Proposed Layout plan - 1 and Proposed elevations - 2. The appellant confirmed that the red line boundary of the development was as shown on Drawing 01, revision A which included the proposed access.
5. The status of the emerging Northumberland Local Plan was discussed. The examination in public had not yet taken place and as this plan is still in the early stages of its adoption, I give it limited weight within this decision.

Main Issues

6. The main issues as set out in the hearing agenda included whether or not there is an essential need for a new dwelling in the countryside. During the course of this appeal it has become evident that concluding on this point would ascertain whether other circumstances would represent the very special circumstances which would justify this proposal in the Green Belt or not. The main issues are therefore:
- whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - if it is inappropriate development, 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 inappropriate development in the Green Belt

7. The appeal site is situated in the Green Belt. Paragraph 145 of the National Planning Policy Framework¹ (the Framework) states that construction of new buildings in the Green Belt should be regarded as inappropriate, other than for several exceptions. Policy C17 of the Castle Morpeth District Local Plan 2003 (Local Plan) reflects this policy. The main parties agree that this development would represent inappropriate development in the Green Belt.

Openness

8. The farm is reached by a single-track road which leads off the A696. The farm yard consists of a surfaced area which provides access to, and hard standing in front of, two large agricultural buildings. The site for the proposed dwelling is directly to the right of the farm entrance. To the east of the site is a two-storey dwelling (the cottage) which is currently occupied by a retired farm worker. Further east beyond this is the historic farmstead, consisting of a number of dwellings within converted agricultural buildings. The farm, and the surrounding buildings lie within open countryside being surrounded by fields. There are open views between and beyond the current group of buildings.
9. The proposed two storey building within the Green Belt would sit in a prominent roadside position, and its mass in combination with its domestic curtilage, would have a significant visual impact which would harm the openness of the Green Belt due to restriction of open views and additional domestic curtilage. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All development must preserve this openness and in accordance with paragraph 144 of the Framework, the harm to the openness of the Green Belt I have identified must be afforded substantial weight.

¹ February 2019.

Other circumstances

10. West Thorn Farm is a mixed livestock and arable business. The livestock include store cattle and lambs which are later sold on and recently the business has expanded to include a small number of cows in calf. The appellant, who works and manages the farm with additional help, lives around 20 minutes drive away in rented accommodation. The last time a farm worker was resident on the farm was in the 1980s. Since that time the business has developed and grown. More recently in 2010 further growth was enabled by the sale and redevelopment of redundant farm buildings. This allowed additional land, equipment, stock and agricultural buildings to be purchased so growing the business and creating the current essential need for a farm worker to live on or near the farm. The Council does not contest the essential need for a farm worker to live on or near the site but does contest the requirement for an additional dwelling.
11. The Council have considered the design and siting of the proposal and have not found conflict with paragraphs a, b or c of Policy H16 of the Local Plan which seeks that new development in the countryside relates to existing buildings and landscape and has an appropriate design, scale and materials. Similarly, there was no conflict with Policy PNP 2 of the Ponteland Neighbourhood Plan 2017 which seeks that new development makes a positive contribution to its surroundings. Having considered the plans and visited the site, I have no reason to disagree with these conclusions.
12. There is a cottage on the farm which is owned by the appellant but tenanted with a secure tenancy under the Rent (Agricultural) Act 1976. The tenant is a retired farm worker who lives in the house with his wife and their daughter who has a caring role. The tenant has lived in the property since 1968 and there is a right of succession for either his wife, or daughter. Due to the existing tenant's age and health, the cottage has been adapted with inclusion of a stair lift and handrails: a reduced protected rent is in place.
13. The farm lies in open countryside and Policy H16 has a presumption against isolated homes in the countryside. Exceptions are, where it is essential for an agricultural worker to live adjacent to their place of work, where accommodation cannot be provided by conversion of an existing building on the holding and where there are no suitable dwellings in the area available for that worker. An essential need for 1.8 workers has been established and other considerations within the policy regarding the financial viability of the business have been demonstrated within the agricultural appraisals by George F. White² for the appellant and A.G. and P. Jackson³ for the Council.
14. There is disagreement between the parties regarding the consistency of Policy H16 with the Framework. The appellant believes that it is more restrictive than the Framework and should carry limited weight. Paragraph 79 of the Framework limits development of isolated homes in the countryside to certain circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work. The Framework does not require evidence that the need could not be met by conversion of another building either on the farm or nearby and Policy H16 is therefore more onerous. Although local circumstances may justify such a departure, given the age of the

² Appraisal of the requirement for a farm worker's dwelling. July 2018.

³ Report on a proposed permanent agricultural workers dwelling. September 2018.

policy, and the lack of further detail regarding its wording, I consider that it carries only moderate weight within this appeal.

15. Relevant to consideration of this appeal is whether there is an essential need for a new dwelling in the countryside and whether other accommodation options have been investigated including whether the cottage could be made available for the appellant. No evidence has been provided by the appellant regarding a search of the market for a nearby dwelling. There are several reasons for this. Firstly, the proposal would be financed by a loan from the Agricultural Mortgage Company which gives long term, low rate mortgages based on the business. The resultant dwelling becomes an asset linked to the business. This option would not be available for a property purchased on the open market. The Council provided evidence of nearby properties for sale in June and July 2018 when the original planning application was lodged. I have no certainty that these are still available or whether another might come to the market. The appellant considers the price of property in the area to be too expensive to follow this option and would require funds to be drawn from the business. Additionally, as there is a recognised essential need for an agricultural worker to live on or near the farm, there are limited options available for finding alternative accommodation for sale in the vicinity.
16. Should the cottage become available it could be refurbished and extended to provide suitable accommodation for the appellant. To enable this, the current tenant would either need to leave voluntarily or as a result of a court order under Schedule 4, Part 1, Case IX of the 1976 Rent Act. The appellant has not approached the tenant to suggest rehousing him on a voluntary basis as he considers that it would not be possible to find a comparable adapted property at the same rent. Should the legal option be pursued, the Act gives grounds for possession of a dwelling-house subject to protected occupancy or statutory tenancy if the dwelling is reasonably required by the landlord for occupation as a residence for himself. The court would need to consider whether alternative accommodation was available for the displaced tenant or landlord. It would consider whether no greater hardship were caused by granting the order than refusing it. Should the tenant be forced to leave the property in this way, either the Council or the landlord would have a duty to rehouse him and his family. The appellant has not pursued this course of action as he believes that due to the age and health of the tenant, the adaptations which have taken place to the property and the preferential rent, it is unlikely that the court would find in his favour. However, despite this belief, this would be for a court to decide.
17. The Council has submitted the case of *Ford v Secretary of State* 2007⁴ (*Ford v SoS*) to support their view that the cottage is potentially available. In this case planning permission had previously been granted for a farm manager's house on the farm with a standard agricultural occupancy condition. Despite this condition, the farm, but not the house, was sold to the appellant. The retired worker remained in the dwelling. Although it was accepted that the retired worker could move, it was concluded that the house was not available to the appellant.
18. The Council policy context within *Ford v SoS* included a requirement that "no other suitable dwelling was reasonably available" and also, that "a long-term essential need" for the new dwelling was required. With respect to the issue of

⁴ *Martin Edward Ford, Deborah Ann Ford v The Secretary of State for Communities and Local Government, The First Secretary of State, North Somerset District Council.* (2007) EWCH 252 (Admin).

availability, the case confirmed that because the appellant's father was living in the existing house, it was unavailable. This is a similar situation to the appeal before me. Regarding the long-term need for the dwelling, it was concluded that as the property could be vacated at some point in the future, and so become available, the need for an additional dwelling was temporary and not permanent. However, Policy H16 before me differs in its meaning from the Council policy within Ford v SoS. It has no such temporal element requiring the need for a dwelling to be permanent. The initial Ford v SoS finding that the existing dwelling was unavailable therefore supports the view that the cottage at Kirkley West Farm is also not available. I give the conclusion of the Ford v SoS substantial weight within my decision and conclude that as the cottage is not available there is no conflict with this element of Policy H16.

19. The appellant contends that the issue of availability is a matter of planning judgement. To support this view, a planning application⁵ determined by Northumberland County Council in August 2019 has been submitted. The approved planning application is for erection of an agricultural worker's dwelling on a farm which has, amongst other accommodation, an existing farmhouse and tenanted cottage. It is argued that this decision demonstrates that despite the potential for other accommodation to be available in the future, the decision was taken to allow the proposal in accordance with Policy H16 as the accommodation was not available at the time the decision was taken. The Officer Report is unclear as to why it was considered that the existing farm house could not be made available. However, with respect to the tenanted cottage, the Officer Report references "further information" which was provided to confirm that the cottage could not be made available due to the length of tenancy. In the absence of the complete planning file it is not clear what information was before the Council when this decision was taken and whether the Rent Act applied. Accordingly, I can give this decision little weight within this appeal.
20. An appeal⁶ decision has also been submitted by the appellant. This relates to a case where a new dwelling was proposed despite the presence of an existing dwelling on the holding which was occupied by the appellant's mother. In this case the Inspector had to decide if the existing property, which could be available at some time in the future, was classed as available for the purposes of the appeal before her. The Inspector concluded that as there was no indication that the existing dwelling would become available in the foreseeable future, it could not reasonably be considered available.
21. The Council considers this judgement was contrary to Ford v SoS as it put weight on the personal circumstances of those involved assuming the occupier would be unlikely to vacate the dwelling in the foreseeable future. However, as discussed previously, the Ford v SoS judgement supports the view that if the property is currently occupied, it is unavailable. There is no certainty in the appeal before me that the cottage would become available as this would be in the gift of the courts.
22. The Council has expressed concern that should an additional dwelling be constructed, and the cottage subsequently becomes available, the cottage could be sold on the open market. The tenants have lived in this house since 1968 and there is a right of succession associated with the secure tenancy.

⁵ 19/01543/FUL – East Benridge Farm, Morpeth, Northumberland, NE12 9RF.

⁶ Appeal reference APP/Y2003/W/18/3216854.

This appeal is being considered on the circumstances which are before me at this time and I have no evidence to suggest that this use will not continue into the foreseeable future.

23. Policy H16 seeks to ascertain whether there is alternative accommodation available and this is a matter of planning judgement. Considering the evidence before me including the Ford v SoS judgement, the submitted appeal and the more onerous nature of Policy H16 when compared with the Framework, I consider that the cottage is not available at this time. With respect to the availability of other suitable properties in the vicinity, the appellant has given financial justification why these options have not been investigated further. I therefore consider that the proposal does not conflict with Policy H16 of the Local Plan. The essential need for a worker to live on or near to the farm, combined with the current lack of an available dwelling and so a lack of conflict with Policy H16, represent other considerations which carry substantial weight.

Green Belt planning balance

24. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that all development must preserve this openness. I have found that the development is inappropriate within the Green Belt and harms its openness and I give these matters substantial weight.
25. There is currently an essential need for a worker to manage and run the farm. The cottage is not currently available, and I have no certainty that it will be in the foreseeable future. There is some evidence that alternative accommodation may come to the market within the adjacent development; however, there is no certainty that this will be the case and the financial feasibility of purchasing a property not associated with the business is limited. The unmet essential need for a dwelling to house an agricultural worker carries substantial weight.
26. In conclusion therefore, the development's harm by reason of its inappropriateness and its harm to the openness of the Green Belt is outweighed by the essential need for a rural worker to live permanently at or near their place of work in the countryside. This amounts to the very special circumstances necessary to justify the development. For the above reasons, the proposal would not conflict with the Local Plan or the Framework when these policies are taken as a whole.

Conditions

27. At the hearing, conditions which had been advanced by the Council in the event that the appeal was allowed were discussed and agreed. These conditions have been considered against the tests of the Framework and advice provided by the Planning Practice Guidance (PPG) on conditions. I have undertaken some minor editing and rationalisation in the interests of precision and clarity. Those included in the schedule are found to be reasonable and necessary in the circumstances of this case.
28. In addition to the standard condition regarding the time period for implementation and for certainty and clarity there is a need for a condition specifying the plans to which the permission relates.
29. In the interests of preserving the living conditions of neighbours and ensuring highway safety, a condition is necessary regarding a construction method statement.

30. A condition is necessary requiring mitigation to ensure the development does not adversely affect the local biodiversity including effects upon the conservation status of protected species.
31. A condition is necessary to ensure there is not an increased risk of flooding or contamination of controlled waters.
32. Finally, in the interests of preventing unacceptable harm to the Green Belt, a condition is necessary ensuring that the dwelling could not be occupied other than for the provision of accommodation for a rural worker. Without this condition, the dwelling could be occupied on the open market and would be contrary to established planning policy,
33. The Council suggested a condition requiring facing materials and finishes to be in accordance with details contained within the application. However, this would duplicate the condition requiring accordance with approved plans which show these details. This condition has therefore not been added.

Conclusion

34. For the reasons given above, the appeal is allowed.

E Symmons

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan ALN510492 - 01 Rev A; combined Block Plan (1:500) and Location Plan (1:1250); Proposed Layout plan – 1 and Proposed elevations – 2.
- 3) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - vehicle cleaning facilities;
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within this condition:
- Adherence to the Bat Conservation Trust, Guidance Note 8, Bats and Artificial Lighting;
 - Production and implementation of a pollution prevention management plan. To be agreed in writing with the local planning authority prior to construction commencing and fully implemented as approved.
 - Any deep (in excess of 300mm) excavations left open overnight to be either securely covered, fenced or provided with an earth or timber ramp not less than 300mm wide and no steeper than 45 degrees slope, to provide an escape route for ground animals that might otherwise become entrapped.
 - All trees and hedges shown on the block plan shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
 - Installation of a minimum of 2 integrated bat boxes and 2 integrated bird boxes in the new dwelling. Numbers, types and positions of which to be submitted to and agreed in writing with the local planning authority prior to construction commencing and fully implemented and maintained as approved.
- 5) The dwelling hereby permitted shall not be occupied until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority. Thereafter, the development shall take place in accordance with the submitted and approved details.
- 6) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower or surviving civil partner of such a person, and to any resident dependents.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Craig Ross	George F White
Adeline Jones	George F White
Ricky Alder	Appellant
Joanna Smurthwaite	Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY:

Richard Laughton	Northumberland County Council
Judith Murphy	Northumberland County Council

DOCUMENTS SUBMITTED AT THE HEARING

- Appeal Reference APP/Y2003/W/18/3216854
- Northumberland County Council Delegated Officer Report for application 19/01543/FUL for erection of an agricultural worker's dwelling at East Benridge Farm, Morpeth, Northumberland, NE12 9RF.
- An application for an award of costs by M F Hall (Mr R Alder) was sent to the Planning Inspectorate and the Council the afternoon prior to the hearing and also distributed at the hearing.