



Appeal Decision

Hearing Held on 14 November 2019

Site visit made on 14 November 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/E2734/W/19/3232005

Land Comprising Field at 427289 451502 at Tatefield Farm, Shaw Lane, Beckwithshaw, Harrogate HG3 1QZ

- 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 and Mrs Tate against the decision of Harrogate Borough Council.
 - The application Ref 18/03534/FUL, dated 27 August 2018, was refused by notice dated 31 January 2019.
 - The development proposed is erection of one agricultural workers' dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. Reference has been made to Policy HS9 in the emerging Harrogate Local Plan (HLP) which relates to rural worker's dwellings. At the Hearing, the Council advised that the HLP was at Main Modifications stage and is likely to be adopted early in 2020. Furthermore, Policy HS9 attracted no substantive objection and was considered as an 'uncontested' policy in the Inspector's Report. The Council's reasons for refusal do not refer to this emerging policy. Nonetheless, when asked, the appellant acknowledged it was a relevant policy to consider. As such, I have had due regard to it as an emerging policy and given it moderate weight as a material consideration.
3. The Council accept an essential need exists for the permanent presence of a rural worker at, or near to, the enterprise site relating to the proposal. However, it says that insufficient information has been submitted to demonstrate that the enterprise has reached a position where it can sustain the investment already made at the site and that which is indicated to be made, including the proposed dwelling. As a result, the Council has concerns as to whether a permanent dwelling of the scale proposed is justified in relation to the functional needs and scale of the enterprise. The enterprise site has previously benefitted from temporary planning approval for an agricultural-related dwelling. This was not implemented and has now lapsed.
4. The Council's reasons for refusal relate to the impact of the proposal on its surroundings, particularly the Green Belt and the Crimple Valley Special Landscape Area (SLA), the appropriateness of, and justification for, the proposed dwelling in terms of its purpose to support the enterprise and the practicality of attaching an occupancy condition to its use, if allowed, due to its potential lack of affordability to a typical agricultural worker or manager.

Main Issues

5. Taking the above matters into account, I consider the main issues to be:

- whether the proposal would be inappropriate development in the Green Belt;
- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the surrounding area, including the designated Special Landscape Area (SLA);
- whether the enterprise the subject of this appeal, is viable and sustainable for the proposal to be sustainable development; and
- if the proposal is inappropriate development in the Green Belt, 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

Inappropriate development in the Green Belt

6. Paragraph 145 of the National Planning Policy Framework 2019 (the Framework) states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. Both parties agree that the proposal would be inappropriate development in the Green Belt and based on all that is before me, I find this to be the case.
7. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will only exist where other considerations outweigh the substantial weight to be given to Green Belt harm. As such, in accordance with relevant policies and the Framework, I must assess whether the Green Belt harm identified, by reason of inappropriateness, and any other harm resulting from the proposal would be clearly outweighed by other considerations.

Green Belt openness

8. Great importance is given to the Green Belt by Government and the Framework is concerned with safeguarding the purposes of the Green Belt and its openness and constraining the scale of developments within it. As such, a proposal for a rural workers dwelling must be able to demonstrate that its siting, design and scale does not prejudice the interests of the Green Belt.
9. With this in mind, it is inevitable that the size and scale of the proposed dwelling would adversely impact on the openness of the Green Belt as that the larger a building is, the greater physical impact it has on its surroundings. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a proposal on Green Belt openness. It states that openness is capable of both spatial and visual aspects. In light of this, notwithstanding that the proposed building would be set into the landscape to a degree, I find that its overall impact on openness, both visually and spatially, would be apparent and substantial.
10. The appellant states that the impact on the Green Belt should be considered in the context that the principle of a dwelling in this location is established. Whilst I acknowledge that temporary planning permission for an agricultural workers

dwelling was granted, I find that this does not overcome the harm to openness which would be caused by the larger proposed dwelling in this case.

11. Consequently, I conclude that the proposal would have a substantive detrimental effect on the openness of the Green Belt. As such, it would be contrary to Policy SG3 of the Harrogate Core Strategy (CS) and relevant sections of the Framework.

Character and appearance: siting and scale of proposed dwelling

12. Policy C9 of the HLP says the Council will provide long term protection to the high-quality and highly-sensitive landscape of special landscape areas, including Crimple Valley SLA. Furthermore, Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The proposed site is in the Green Belt and the Crimple Valley SLA. The SLA covers an extensive area of countryside around the southern parts of Harrogate. Around Beckwithshaw, the SLA comprises an attractive rural landscape of rolling hills interspersed with wide-ranging views across large areas of open countryside to the west and south of Harrogate. A public right of way runs diagonally to the east of the site between Brackenthwaite Lane and Shaw Lane. Further footpaths are to the north and east.
13. The appellant has provided a Landscape and Visual Effect Assessment (LVEA) to support their case for the proposal dwelling. Having regard to it and the Council's submissions, I note there are some factual errors within the LVEA, not least the omission that the site is within the Crimple Valley SLA. Nonetheless, from what I have seen and read, the LVEA minimises the significance of the high sensitivity of the SLA to the proposed development and the likely adverse visual change and effects that would result from it regarding landscape character and visual amenity.
14. In relation to visual impact, the appellant has provided Zone of Theoretical Visibility (ZTV) assessments to illustrate that the wider visual effects would be limited due to topography and the careful positioning of the dwelling. These assessments provide a useful indication of the likely impact of the proposal on the wider landscape. However, they are based on a relatively basic analysis of the area and landform rather than any topographical/vegetation modelling. As such, these assessments are not likely to accurately reflect the true ZTV extent and therefore, I give them only limited weight.
15. The appellant argues that there is no policy basis which limits the size of an agricultural workers dwelling and no policy stating that the only design solution for such a dwelling is that of a traditional pitched roof agricultural farm house. The appellant also states that the proposed dwelling is designed to the highest sustainability specifications which is a significant benefit and that the siting and design of the building is justified in those terms. I appreciate these points. However, in my assessment, I find it reasonable to consider whether an agricultural justification exists for the proposed building and accommodation to be of the scale and nature proposed.
16. The Council says that the dwelling would be significantly outside of the typical size and floorspace range anticipated for an agricultural dwelling related to a livestock enterprise. Examples of other such proposals and dwellings across the country provided by the Council demonstrate this and I note the floorspace range of such properties is broadly between 100–200sqm, including enterprise-related elements such as an office, storage areas and a boot/utility room with a toilet and shower. From my experience, I consider this to be reasonable and about right.
17. From the submitted floorplans, the proposed dwelling would have an estimated total floorspace of between 350-400sqm, substantially more than other agricultural

workers dwellings related to similar agricultural enterprises to which I have been referred. The proposed dwelling would provide facilities expected in relation to the activities of the enterprise. However, the appellant has given no substantive justification for the proposed amount of domestic accommodation other than to state at the Hearing that it is 'aspirational' and to point to the sustainability merits and benefits of the building.

18. There are elements of the proposed dwelling which would create unnecessary bulk and scale to the building such as the large entrance and hallways that add significant floor area to the lower and upper floors. Also, it is unclear why a sitting room and a lounge are required within the dwelling, particularly as neither would appear to correspond to the facilities related to the enterprise.
19. I acknowledge that the proposed dwelling is of a contemporary design, would have several sustainability credentials in its favour and would include the elements of its accommodation reasonably be expected relating to the enterprise. Furthermore, I appreciate the appellant's intention and aspiration to provide a comfortable home for their family. Nonetheless, when all such matters are considered in the context of what could reasonably be expected in relation to the enterprise, I find that the scale of the proposed dwelling would not be commensurate with the scale and needs of the enterprise for which it is sought.
20. Having had regard to all before me on this matter, I find that the proposed siting and scale of the dwelling would fail to conserve or enhance the special landscape character of the Crimple Valley SLA which is assessed to be highly sensitive to new development. Furthermore, it would not be in keeping with the scale and character of a local farmstead cluster of buildings. Whilst there is no specific issue with the contemporary design and appearance of the proposed dwelling, its scale and general impact on the surrounding sensitive landscape would result in material harm to the character and appearance of the surrounding area.
21. Consequently, I conclude that the proposal would have an adverse impact on the intrinsic character of the surrounding area, including the SLA. Therefore, it would be contrary to Policy C9 of the Harrogate Local Plan (LP), Policies C2, SG4, EQ1 and EQ2 of the CS and the relevant sections of the Framework.

Viability of the enterprise and sustainable development

22. In written submissions and at the Hearing, the appellant explained the nature of the enterprise, the activities and needs of the deer herd and the enterprise day and night and throughout the year. As such, I understand that there are several key activities and elements to the business which require the regular, on-going presence of a worker. Based on what I have seen, read and heard and noting the Council's view, I am satisfied that an essential need exists for a rural worker to have a permanent residential presence at, or near to, the enterprise site.
23. The Council state that whilst there has been investment in the site and enterprise by the appellant, there is limited evidence to support the assertion that the enterprise has reached a position of viability and sustainability where it can sustain existing investment made and proposed future investment, including the dwelling.
24. The appellant began deer farming at the site in 2012 and has invested in necessary fencing, buildings and other structures for the management and welfare of a deer herd. As such, it is evident that the appellant has invested in the enterprise and the site significantly over recent years. Indeed, as I noted during my site visit, the initial construction workings of another agricultural building were also in place.

25. I have had regard to the appellant's Agricultural Statement and other submissions which set out the history of the enterprise, including the loss of almost all breeding hinds due to a TB outbreak in 2015. I also note that no compensation for this was available to the enterprise and that a re-stocking programme for the herd has subsequently taken place.
26. A letter from the appellant's business accountant, dated August 2018, states the enterprise had made a profit within the last three years and, as a result, there is confidence that the enterprise is sustainable. No other substantive evidence regarding existing and on-going sustainability and viability of the enterprise has been submitted.
27. During the period following the TB event, I note that no venison meat was able to be sold by the enterprise. Consequently, a significant source of income was not realised during that time. Nonetheless, the appellant has pointed to other sources of income, including the sale of silage and leasing out land for grazing. In that context, the Agricultural Statement states that the enterprise most recently had a turnover 'in excess of £30,000' with 'a gross profit exceeding £16,000'. This is said to include all labour costs. However, no detailed expenditure figures or full accounts for the enterprise have been submitted.
28. From the evidence, it is my view that the submitted figures do not include or identify other variable and fixed costs incurred in the ongoing operation of the enterprise. The identification and deduction of such costs would, in my view, provide a more realistic assessment of profitability, viability and sustainability of the business. Moreover, it is noted that the assessment in the Agricultural Statement does not provide a net profit figure for the enterprise.
29. There were extensive discussions at the Hearing about the sustainability and viability of the enterprise, particularly in terms of finance, and the level of evidence to support the appellant's case in this respect. I appreciate the argument that the testing of such considerations is no longer required as an assessment of the appropriateness of an agricultural workers' dwelling. Nonetheless, I find that in any such assessment it is logical to identify a reasonable correlation between the scale of an agricultural workers dwelling and the functional requirements of the business it relates to. Furthermore, the functional need for the permanent presence of a worker and their reasonable domestic requirements should also be considered. To that end, I find it reasonable to include a financial element when assessing the viability, sustainability and long-term prospects of the enterprise to endure.
30. Moreover, the PPG¹ states that, amongst other things, it may be relevant to take into account the degree to which there is confidence that the enterprise will remain viable for the foreseeable future. Accordingly, in my view, a reasonable financial appraisal of the enterprise past, present and future should form a relevant part of the overall assessment of the proposed dwelling.
31. Estimated build costs for the proposed dwelling have been provided and it is argued that these are cheaper than purchasing a similarly sized dwelling within approximately four miles of the enterprise site. Moreover, the appellant asserts that mortgage costs would be reasonable and could be met by the enterprise.
32. The Council say that following construction, the proposed dwelling would effectively be worth more than the land and enterprise combined. I have carefully considered the Council's assessment of the investments and costs already incurred by the appellant and those which would be incurred in relation to the proposed dwelling -

¹ Planning Practice Guidance: Ref: ID: 67-010-20190722 – 'How can the need for isolated homes in the countryside for essential rural workers be assessed?'

estimated at around £600,000 in total. I have also noted the submitted gross profit of the enterprise in the Agricultural Statement and had regard to the relatively modest scale of the enterprise. As such, I have concerns about the enterprise presently being sufficiently viable and sustainable to sustain existing and proposed investment.

33. Through the evidence and discussions at the Hearing, I find that whilst the proposed dwelling could be funded through an injection of more private capital into the enterprise or by borrowed capital, each would carry a substantial financial charge. This would add to the significant costs already arising from existing investment and the re-stocking of the deer herd following the TB event.
34. As a result, in the absence of any substantive evidence before me to the contrary, I find that insufficient information has been submitted to support the assertion that the enterprise can sustain the investment made, and that which is yet to be made, including the proposed dwelling. Therefore, it has not been demonstrated that a permanent dwelling of the scale proposed can be justified and supported by the enterprise in relation to the functional requirements of the business.

Other considerations

35. At the Hearing, the availability and possibility of the appellant living at appropriate alternative accommodation near to the enterprise was explored. However, such accommodation is very limited due to suitability and availability. It is noted that the appellant and their family resided at Tatefield Hall close to the enterprise site for a period of about two years until 2015. However, this ended when the lease of that property became unavailable. As such, the appellant has moved about ten miles from the enterprise due to the lack of appropriate dwellings nearby. In light of this, I accept that the availability of such properties near to the enterprise is very limited and has contributed to the appellant submitting the proposed dwelling.
36. A dwelling in connection with the enterprise was granted temporary permission on the site previously. The first approval related to the temporary provision of a 3-bedroom log cabin. The position of this dwelling was different to the proposed dwelling and whilst it would have been in a more visually exposed location, its scale and size was much smaller. Although permission was granted, the log cabin was not constructed as the appellant found rented accommodation at Tatefield Hall. However, the appellant now lives around 10 miles from the enterprise. I note the Council's view that the temporary planning approval for a dwelling on site could have been renewed by the appellant. I have some sympathy with that view. However, I am aware of the appellant's circumstances and reasons for this being the case and have therefore also taken this into account in my overall assessment.
37. I have been referred to appeal decisions and judgements, including *Embleton*². Notwithstanding this, whilst having due regard to these other cases and their similarities and relevance to this appeal, I also note many differences. Moreover, I do not have full details of these cases before me and, as such, I have given only limited weight to them. In any event, I must assess the proposal before me on its own merits and circumstances and confirm that I have done so.
38. The Council's third and fourth reasons for refusal relate to the appropriateness and practicability of an occupancy condition attached to a planning approval for the proposal. As I am dismissing the appeal, the relevance of these reasons for refusal is somewhat diminished in this case. As such, my comments on this are brief.

² *R (Embleton PC & ANr) vs Northumberland CC (& ANr) [2013] EWHC 3631 (Admin)*

39. The appellant argues that the size and scale of the proposed dwelling relates to it being a modern family home as well as being connected to the rural enterprise. I have also considered the possibility raised by the appellant that an agricultural worker or manager could afford to buy the proposed dwelling at some future point and note that the appellant disagrees with the Council that no market would realistically exist for the dwelling with an agricultural restriction on occupancy. As such, I find the likelihood of a rural worker or manager affording to buy such a dwelling to be small and unrealistic. Moreover, attaching an occupancy condition, which would be necessary to ensure the dwelling would remain for its intended purpose, would not reasonably or likely result in achieving that intention.
40. Taking the above into account, on the balance of probabilities, I find that the occupancy of the dwelling could not be effectively conditioned. In my assessment, there would be no realistic market for the dwelling due to its anticipated selling price and as such the dwelling would effectively be an open market dwelling in the open countryside which could be severed from the enterprise.

Very special circumstances

41. There is a need for a permanent staff presence at the enterprise site to delivery appropriate and necessary animal care and welfare and site maintenance and management essential to the business. However, in my view, the activities and benefits identified would not require the provision of a dwelling of the size and scale proposed and could be delivered through the provision of a smaller dwelling which would equally meet the needs of the enterprise. Whilst there is justification for a worker to be on site, for the reasons stated, I find that the proposed dwelling is not justified for its identified purpose.
42. The proposed dwelling would be of a high specification sustainable construction and feature substantive sustainability features and would be set down in the landscape to reduce its overall scale. I have given these matters due weight in my decision. However, I find such matters and others in favour of the proposal, would not be of such significance or weight to overcome the Green Belt harm and the other harm which has been identified.
43. The principle of development and the need for a permanent resident worker or manager on site does not justify the impact of the proposal on the Green Belt in terms of inappropriateness and openness, or the harm to the character and appearance of the area, including the SLA. Moreover, having carefully considered the benefits of the proposal and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the proposed dwelling in the Green Belt do not exist in this case.

Conclusion

44. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A McCormack

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Andy Rollinson	Agent, Rollinson Planning Consultancy
Mr Richard Hughes	Landscape Architect
Mr Shane Tate	Appellant
Mrs Claire Tate	Appellant

FOR THE LOCAL AUTHORITY:

Mr Mark Williams	Principal Planning Officer, Harrogate Borough Council
Mr Howard Elliott	Reading Agricultural Planning Consultancy
Mr Barrie Gannon	Landscape Architect, Harrogate Borough Council

Appeal Hearing Documents

From the Appellant:

1. Decision Notice and Brochure illustrating the type of temporary accommodation permitted in relation to the enterprise in 2013 – Application Ref: 13/03641/FUL
2. Two large scale plans – Zones of Theoretical Visibility (ZTV) previously submitted but relating visual impact of proposed development.

From the Local Authority:

3. Planning Practice Guidance (Ref ID: 67—1—20190722) – *'How can the need for isolated homes in the countryside for essential rural workers be assessed?'*