



Appeal Decision

Hearing Held on 28 January 2020

Site visit made on 28 January 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/A4710/W/19/3237486

Tenacres agricultural holding, Wadsworth Lane, Hebden Bridge HX7 8DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Gillian Clough - Tenacres Cheese against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00443/OUT, dated 11 April 2019, was refused by notice dated 29 July 2019.
 - The development proposed is farm workers dwelling and associated dairy.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is in outline form with all matters reserved. I have therefore taken the submitted site layout plan indicating the position of the proposed building, access point, vehicular turning area and parking spaces to be indicative only for the purposes of my assessment.
3. Policies GB1, EE2 and HS1 of the Calderdale Metropolitan Borough Council Publication Draft Local Plan (2018) (PDLP) are included in the Statement of Common Ground as being policies relevant to the appeal. The Council advises that its Draft Local Plan (PDLP) was submitted for examination in early 2019. Stage 1 hearings in the Examination in Public on the Local Plan were held in June and July 2019, with stage 2 hearings due to take place in Spring 2020. Given the relatively early stage in its preparation limited weight can be attached to these Policies.

Main Issues

4. The main issues are:
 - (i) 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.
 - (ii) The effect on the openness of the Green Belt.
 - (iii) Whether there is an essential need for a permanent rural worker's dwelling; and
 - (iv) If the proposal would be 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 or not inappropriate in the Green Belt

5. The Government attaches great importance to Green Belts and the construction of new buildings is inappropriate in the Green Belt. Exceptions to this are set out in paragraphs 145 and 146 of the Framework. Policy GB1 of the PDLP is consistent with this approach.
6. New buildings for agriculture and forestry are listed as exceptions, but dwellings for rural workers in agriculture or forestry are primarily intended for residential use. Consequently, even though they are intended to support such a use, they are not buildings for agriculture or forestry. Equally, a dairy does not fall under any of the exceptions in the Framework.
7. Therefore, as the proposal is for a new building in the Green Belt, it would be inappropriate development. The parties are not in dispute on this point. The Framework details that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The effect on the openness of the Green Belt

8. Paragraph 133 of the Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Furthermore, one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. It has been held in the High Court that openness is epitomised by the lack of buildings or development.
9. The site is close to the edge of the built up part of the settlement and within a Special Landscape Area. There are existing buildings on the wider holding used in association with the keeping of livestock and for storage purposes. However, the site is distinctly rural in character and the indicative position of the building is on land that is currently open.
10. The appellant's case suggests that there would be a minimum requirement for the dwelling to have three bedrooms. The dairy that would also be incorporated into the building would have a separate space for staff changing, receiving / refrigeration of raw ingredients, a cheese making / draining room, a drying and maturing room, a washing up room and space for the packing and refrigeration of the finished product. It was confirmed at the hearing that the overall scale of the building had not been considered in any detail although the intention would be to minimise the effect on openness by cutting the development into the slope of the land.
11. Given the general room requirements set out by the appellant, the gross internal floorspace given on the application form of 100 square metres (sq m) potentially underestimates the floorspace that would be created to meet their aspirations. Furthermore, in the absence of any detailed brief on the scale of the development or assessment of whether there would be any subterranean structural issues to overcome to allow for the building to be cut in to the slope, the degree to which the visual effect of the proposal could be mitigated is

unknown. Even without this information, the introduction of new built form, in close proximity to the boundary with Wadsworth Lane, on a prominent hillside, would undoubtedly result in encroachment into the countryside and would reduce openness both from a spatial and visual perspective.

12. The effect on openness would therefore conflict with the fundamental aim of Green Belt and the purpose of preventing encroachment into the countryside as set out in the Framework.

Essential need for a permanent rural worker's dwelling

13. The Framework sets out at paragraph 79 that planning decisions should avoid the development of isolated homes in the countryside unless, amongst other things, there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. The appeal site is not isolated in terms of the meaning within the Framework given its close proximity to existing dwellings. Nevertheless, given the location of the site outside the settlement boundary, whether or not an essential need can be demonstrated remains a material consideration.
14. The holding on Wadsworth Lane is approximately 0.5 miles from the appellant's house and measures some 16 acres. Separate land approximately 1.5km from the site at Wadsworth Lane is rented by the appellant. This measures approximately 18 acres and is used as extra pasture for sheep. The appellant confirmed at the hearing that they keep 27 Anglo Nubian goats at Wadsworth Lane. These goats are dual-purpose given their milk and meat producing attributes. A herd of Wiltshire Horn Sheep are also kept at the holding, the precise number of which is less clear but in oral evidence the appellant estimated that there are around 20 ewes in lamb. The livestock numbers presented in the written evidence are marginally different, although I accept that agricultural stock is a fluctuating matter.
15. The sheep spend most of the year outside with a large proportion of the welfare focussed around checking that they appear to be in good health with tasks including hoof trimming, vaccination and lambing. Goats have been kept on the site since 2010. In oral evidence at the hearing, the appellant explained how Anglo Nubian goats require greater vigilance than the sheep. For example, they have no fleece and store their body fat in the centre of the body cavity. Consequently, they are particularly sensitive to wet and cold conditions meaning they need shelter during poor weather. Other reasons given as to why they require close attention included their ability to climb, that they can easily startle and that they tend to have large litters.
16. The appellant attends the site every morning to feed, water, and milk the goats. When the weather is good the goats are put out to pasture, if not they are fed hay. Each time the goats are milked, the milking room at the holding is cleaned and milk is taken by car in sealed containers back to the dairy at the appellant's house. A further visit to feed and water the goats is undertaken each evening as well as further milking. Each time the appellant visits the holding they have to unlock and lock the site. This activity occurs 7 days a week although time spent on the site does fluctuate given there is generally no milking in the evening between September and March.

17. At the time of the hearing, kidding had just started and I was told that this would continue until April. I heard that whilst births tend to be in the evening or at night they can take place at any time of day and that the last week of pregnancy requires more vigilance. Whilst not all require assistance in giving birth, problems can occur where kids are mal-presented. Following birth, kids need to be checked regularly to ensure they are being fed enough and given that they can easily get cold and die if they are not closely monitored. The evidence before me confirms that work associated with the holding equates to employment for 1.5 persons full-time equivalent.
18. Whilst these factors indicate the work is time consuming and that careful attention is required, particularly in respect of the goats, the numbers of livestock involved are relatively modest and the appellant has not lived on the site since it was acquired approximately 10 years ago. In that time they have managed to monitor the livestock from their existing address whilst also operating a cheese making business.
19. I understand that the appellant would not generally be alerted to a need to attend site if an animal was sick or in distress and that accessing the site in inclement weather could be difficult on occasion. However, these situations are replicated at many farms often with far greater numbers of livestock and areas of land to cover. The close proximity of the appellant's existing dwelling and the regular checks that are already undertaken, also reduces the likelihood of animal welfare issues arising. I am therefore not persuaded by the evidence that I have seen or heard that a full-time presence on the site would be justified in the interests of animal welfare.
20. The appellant suggested at the hearing that animal welfare is the most significant matter in assessing essential need for a rural worker's dwelling and has queried why the Council did not consult an animal welfare specialist in reaching a similar conclusion. However, I note the appellant has not employed their own such specialist. Furthermore, no substantive evidence has been provided to demonstrate the size of dwelling that would be required commensurate to any functional need, taking into account the specific number and types of livestock and the size and overall requirements of the holding.
21. I acknowledge the appellant's concerns in respect of the security of the site and the safety of the animals. In particular, I have some sympathy for the appellant and the distress they may have experienced following previous security incidents. However, the appellant has had livestock at the holding for approximately 10 years and the evidence before me indicates that these types of incidents have been relatively few in number, particularly in terms of those relating to animal welfare.
22. The close proximity of neighbouring residents provides a level of natural surveillance that many agricultural holdings do not benefit from. There are also other security measures that could be explored such as alarm systems or cameras that could alert the appellant and give them an opportunity to respond promptly given the distance that they already reside from the site. For these reasons, I am not persuaded that the appeal site presents a level of vulnerability that warrants a permanent presence on site.
23. I note the evidence of alternative properties considered by the appellant and the reasons these were ruled out which included their size and ability to provide space for a dairy, distance from the road and accessibility, and that

properties at other farms were unlikely to come up for sale or were further from the holding. In any case, given the close proximity of the appellant's existing dwelling to the holding, it is unlikely that the options considered would have provided any significantly greater ability to manage the holding than already exists.

24. Whilst the goats are occasionally used for meat, a significant part of the appellant's case focusses on their desire to locate their farm and dairy operations on the same site. Milk produced by the goats whilst not copious in quantity, is used to make cheese. Whey is also produced and provided to restaurants. At the moment, other than the milking, all other aspects of cheese production is undertaken off site at the appellant's house. I saw on site the two rooms at the appellant's house that are utilised for cheese production and the complexities involved in terms of the specific conditions that need to be created to produce the cheese. At the hearing the appellant suggested that the nature of the business and the traditional techniques employed are pivotal to its success and that the product would not be the same if the dairy was located elsewhere. However, it is already clear that the business has been able to function without a presence on the holding and I am therefore not convinced that the dairy needs to be located there.
25. No detailed customer base has been provided although the written evidence before me includes some support from businesses that stock or sell the cheese to other outlets. The appellant also advised at the hearing that there was a waiting list of outlets, although I have not been provided with detailed information. In oral evidence, the appellant confirmed that the holding and dairy business are profitable even accounting for expenses and that this has been their sole means of income since the end of 2014. Whilst I have no detailed accounts before me, I have no reason to doubt this. However, further information may have assisted in further understanding the scale of the business and its ability to support the building of a dwelling on the site.
26. Whilst there is support in the Framework for a prosperous rural economy, such development should be sensitive to its surroundings. Emerging Policy EE2 (Economic Activity Outside the Main Urban Areas) of the PDLP also supports economic development in rural areas provided that amongst other things it meets green belt policy requirements. For the reasons already set out under the main two issues, I am not persuaded this would be the case.
27. Having regard to all the above factors, I do not find that an essential functional need to live on the site is clearly established.

Other considerations

28. The Council acknowledges that it is unable to demonstrate a 5-year housing land supply. In the circumstances the development plan is not up-to-date and paragraph 11d of the Framework is engaged. Permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to include those relating to Green Belts. The Written Ministerial Statement of December 2015 made it clear that most development in the Green Belt is inappropriate and unmet need alone is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

29. The appellant contends that the operation of the dairy business is essential to the rural enterprise and that it is currently restricted by the production facilities. They suggest that more space is required for the dairy and that there would also be a potential to increase the number of livestock if they could live on site including growing the herd of milking goats from the existing 13 up to 20. According to the appellant, full-time jobs for up to 4 people could be created as well as investment in the holding. However, there is a distinct difference between essential need for a rural worker and a desire to expand or improve production facilities for the business. If the desire is to expand the business and increase the number of employees, I am not convinced that a larger off-site facility away from the Green Belt could not be explored.
30. My attention has been drawn to a proposed housing allocation further along Wadsworth Lane. However, as set out in my procedural note, the preparation of the Local Plan, which includes the allocation of such sites, is at an early stage. Furthermore, the Council pointed out at the hearing that the PDLP was being informed by a Green Belt review with detailed consideration of potential parcels of land that might be released. I agree that the provision of a single dwelling is not comparable with the strategic approach involved with drafting the wider vision for the Borough.
31. At the hearing, the appellant mentioned that another dairy farm in Skipton had a dwelling. However, I am not aware of the full planning background including whether the size of the holding or location are comparable to the proposal before me. I am therefore not persuaded that this advocates the particular merits of the case before me.
32. My attention has been drawn to the cheese produced at the dairy having won the Super Gold Award at the World Cheese Award 2019. I also note the support from businesses who say there is further demand for the product as well as the support from the local MP. Whilst the reputation of the dairy and the cheese produced is commendable, this further demonstrates that, the appellant has been able to develop a successful product under the current circumstances. I therefore only attach limited weight to this matter.

Green Belt Balance and Conclusion

33. The proposal would provide a rural worker's dwelling and a dairy. The specific requirements for the livestock, principally the Anglo Nubian goat herd, means that the management and logistics of the operation would be made easier by having a permanent presence on the site. However, from the evidence that I have seen and heard, I am not persuaded there is a clearly established existing essential functional need, particularly given the agricultural enterprise is relatively small in scale and the appellant already lives near to the holding.
34. There would be harm to the Green Belt both in terms of the development being inappropriate and harm to openness. These matters attract substantial weight against the development.
35. Therefore, having considered all matters raised in support of the development, they collectively would not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist and the development is contrary to the Framework.
36. For these reasons, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR

APPEARANCES:

FOR THE APPELLANT:

Gillian Clough	Appellant
Ian Swain BA (Hons) BTP MRTPI	Principal Planner WBW Chartered Surveyors
Peter Williams	WBW Chartered Surveyors

FOR THE LOCAL PLANNING AUTHORITY:

Paul Copeland	Senior Planning Officer
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INTERESTED PERSONS:

Phil Wells	Resident
Viv Boardman	Resident
Anthony Rae	Resident
Karen McKnight	Resident
Atar Hadari	Resident
Leanne Carlton	Resident

LIST OF DOCUMENTS SUBMITTED AT THE HEARING

- Printout of social media posts relating to a previous security incident.

LIST OF DOCUMENTS SUBSEQUENTLY SUBMITTED FOLLOWING A REQUEST AT THE HEARING:

- Extract from the proposals map for the Replacement Calderdale Unitary Development Plan (2006) showing the location of the appeal site in the Green Belt.
- Policies GB1 (Development in the Green Belt), EE2 (Economic Activity Outside the Main Urban Area) and HS1 (Non Allocated Sites) of the Calderdale Metropolitan Borough Council