



Appeal Decisions

Hearing Held on 18 September 2019

Site visit made on 18 September 2019

by S D Castle BSc(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2020

Appeal Ref: APP/P0240/W/19/3229914

Brodie Stables, off The Rye, Eaton Bray LU6 2BQ

- 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 Sean Banks and Tanya Wilson against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/00646/FULL, dated 01 March 2019, was refused by notice dated 14 May 2019.
 - The development is retention of existing timber building as a dwellinghouse for an equestrian worker employed at the site (revised application following CB/18/02314/FULL).
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Decision

1. The appeal is dismissed.

Application for costs

2. At the hearing an application for costs was made by Sean Banks and Tanya Wilson against Central Bedfordshire Council. That application is the subject of a separate decision.

Preliminary and Procedural Matters

3. Since the date of the hearing, the Eaton Bray Neighbourhood Plan (EBNP) has been made (October 2019) and now forms part of the development plan. The parties have had the opportunity to comment on any relevant policies within the EBNP during the course of the appeal. The development plan for the area also includes the saved policies of the South Bedfordshire Local Plan Review (2004) (the LPR) and the Central Bedfordshire Mineral and Waste Local Plan (2014).
4. The Emerging Local Plan (ELP), the Central Bedfordshire Local Plan, is still under examination. I have only been provided with limited details regarding to what extent there are unresolved objections to any policies. There was, however, common ground between parties at the hearing that only limited weight should be attached to the policies within the ELP.
5. At the time of my site visit, internal works to enable the use of the timber building as a dwelling appeared to be ongoing. The timber building has been constructed without planning permission and the appeal relates to its construction as well as its proposed use as a dwelling.

Main Issues

6. The main issues are:

- i) Whether the proposal constitutes inappropriate development within the Green Belt;
- ii) The effect on openness and the purposes of including land within the Green Belt;
- iii) Whether there is an essential need for a rural worker to live permanently at the site; and
- iv) If the development is 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

Inappropriate development in the Green Belt

- 7. The appeal site lies within an area of Green Belt. The LPR does not include any saved Green Belt policies relevant to the development. As such, the Council's refusal reason refers only to conflict with section 13 of the National Planning Policy Framework (the Framework). The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. ELP Policy SP4 relates to development in the Green Belt and states, amongst other things, that there is a general presumption against inappropriate development in the Green Belt in accordance with the Framework.
- 8. The Framework advises that construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions, set out at criterion (b), is the provision of appropriate facilities for (amongst other things) outdoor sport and outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 9. The appellants contend that the dwelling would not be inappropriate development as there is an essential need for an equestrian worker to live on the site, in accordance with paragraph 79 of the Framework, and that the dwelling would support an outdoor activity (equestrianism). Paragraph 79 is not, however, relevant to the specific assessment of inappropriate development in the Green Belt. Furthermore, even though the dwelling is intended to provide accommodation for an equestrian worker and would play a role in supporting outdoor equestrian activities, the primary use of the building is residential and not as a facility for an outdoor activity. As such, the development does not fall within any of the exceptions listed at paragraph 145 and is, therefore, inappropriate development.

Openness and the purposes of including land within the Green Belt

- 10. The Framework states that an essential characteristic of Green Belts is their openness, and the fundamental aim of Green Belt policy is to prevent urban

sprawl by keeping land permanently open. Furthermore, one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment.

11. The building is located in the open countryside and the surrounding area is predominantly flat, open fields with mature field boundaries. The building is of a modest, single-storey scale and it projects northwards from the existing equestrian buildings on the site. An L-shaped stable building is located to the south and a mature high boundary hedge to the west. Public and private views of the building are significantly constrained by the existing stable buildings and mature field boundaries. Nevertheless, the introduction of built form in a place that is currently void of development would reduce openness and would ultimately encroach into the countryside. As such, I find that the proposal would lead to adverse effects upon the openness of the Green Belt, spatially, and to a much lesser extent, visually. Whilst the reduction in openness would be localised, the harm to openness and the purposes of the Green Belt would conflict with the Framework.

Essential need for a rural worker

12. Whilst the LPR includes policies in relation to agricultural workers' dwellings (Policy H10) and horse related development (Policy NE11), these policies are not directly relevant to the provision of a dwelling for a rural equine worker. Although agreed to be of limited weight, ELP Policy DC3 is supportive of permanent dwellings for the use of agricultural and forestry workers in the open countryside subject to a range of criteria, including, amongst others: there being an existing functional need; the activity having been established for 3 years; the enterprise currently being financially sound and having a clear prospect of remaining so; and that the need could not be fulfilled by another existing dwelling in the area. Paragraph 79 of the Framework is also accepting of isolated homes in the countryside where there is an essential need for a rural worker.
13. At the hearing, the Council confirmed that it considered the dwelling would be isolated. The appellants' position on this matter is less clear. Much of the appellants' case relies on compliance of the scheme with paragraph 79 of the Framework, but the appellants consider that the site forms part of the hinterland to Eaton Bray, such that it is not wholly isolated. The dwelling would, however, be predominantly surrounded by open fields and is physically separated from the settlement of Eaton Bray by those fields. As such, I concur with the Council that the dwelling would be isolated, having had regard to the findings of the Appeal Court in the case of Braintree¹.
14. The appellants have set out in significant detail the financial history and functional requirements of their business and consider that there is an essential need for an equestrian worker to live on the site. The appellants advise that they purchased the site and adjoining fields in August 2015 and began operating in January 2016 as a livery yard. I note that retrospective permission² was granted in February 2018 for the manège and that a certificate of lawfulness³ for retention of stable buildings and use of land for the keeping of horses was issued in October 2017. The stables provide a total of 9 loose boxes, a tack room and storage space. The appellants advise that the total

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

² Planning Ref: CB/17/05170/FULL

³ Planning Ref: CB/17/03504/LDCE

- area of adjoining land under their control measures approximately 2.7ha, including the manège and paddocks used for grazing.
15. The appellants advise that they work exclusively at the site and employ no other members of staff. The business provides typical livery services as well as a range of more specialist services including, amongst others, show preparation; riding courses; care for injured horses; and schooling or lunging of the livery horses. At the time of the appeal, the appellants advise that there were 4 full-time liveries, 2 horses 'on holiday' and a horse owned by one of the appellants on the site.
 16. At the hearing the appellants described their work on the equestrian enterprise, giving a breakdown of daily activities. The appellants advise that they currently live approximately 12.5km from the site and are typically on-site from 0630h until 1830h, returning at 2030h to undertake late checks. The appellants assert that the essential need for an equine worker to live permanently on-site is primarily justified on animal welfare grounds. The appellants' evidence includes details of welfare and security issues that have arisen at the appeal site since 2016. These include, amongst others, arson attacks, a horse with colic, a horse getting 'cast' and a horse getting caught in a hay net overnight. It is argued that having a worker living on-site would enable issues such as those arising from accidents; sudden illness; the horses having been startled; and security concerns to be addressed immediately.
 17. The appellants' submissions include a letter from an equine vet and an e-mail from Bedfordshire Police. The letter from the vet indicates that a residential property will further enhance the welfare of the animals and that it is highly necessary to be extra vigilant when dealing with the type of horses currently on the site, including elderly patients, youngstock and individuals undergoing rehabilitation. The police e-mail notes a number of historic security incidents, including arson at the site. At the hearing I heard of an additional recent security issue at the site. Such events are understandably distressing for the appellants and potentially harmful to animal welfare.
 18. Whilst I acknowledge that the security of the site could be improved by CCTV and more robust gates, such measures would be unlikely to be as effective as an on-site dwelling. The location of the on-site dwelling immediately adjacent to the stables would be likely to act as a deterrent to crime, whilst also allowing easier detection and swift resolution of security and animal welfare issues.
 19. I acknowledge that given Ms Wilson's extensive experience working in the thoroughbred racing industry and the equestrian related services offered by the enterprise, the horses on the site may be more likely to be of some value. As such, the risk of theft is heightened, and customers owning high-value horses are more likely to expect a residential presence on-site. I note that the appellants have provided e-mails from 2 potential clients indicating the importance of an on-site dwelling for livery services involving high-value horses.
 20. The submitted accounts indicate only a very small profit has been made in years 2016-2017, 2017-2018 and 2018-2019. Indeed, a wage does not appear to have been taken out of the business until 2018-2019, and that wage was below the minimum wage for a single full-time worker. The appellants indicate that the on-site dwelling and the ability to provide 24-hour care would allow significantly higher rates to be charged, they argue, up to 73% higher per

livery and up to 78% higher for youngsters. Furthermore, the appellants advise that there is a waiting list of 6 clients and that the storage space within the dwelling would free-up existing stable space currently used for storage. From the submissions before me, it is evident that the business has been established for some time, and there is the potential to increase turnover with an on-site dwelling. Although I have not been furnished with a formal business plan, the Council has not raised any concerns regarding the viability of the enterprise in the foreseeable future. As such, I have no reason to doubt the appellants' commitment to their business, its future growth and viability.

21. The appellants advise that there is a lack of suitable nearby accommodation available to rent. Furthermore, given it is the noises and movements of the horses that will make a worker aware of the need for immediate action, the appellants assert that an on-site rural worker's dwelling is necessary. The Council has not, however, provided any substantive assessment of whether an on-site dwelling is necessary or as to whether the need could be fulfilled by other existing accommodation in the area. Taking into account the susceptibility of horses to a variety of problems and the high value nature of the horses in question, avoidable losses would likely have a serious effect on the business. As such, based on the evidence put forward and my observations at the site visit, I find that there is an essential need for an on-site dwelling to enable a professional equine worker to quickly identify and respond to any animal welfare and security issues. The development is therefore in accordance with paragraph 79 of the Framework and with the underlying aims of ELP Policy DC3.

Other considerations

22. The building is finished with stained timber boarded elevations and a grey slate tiled roof. The single storey scale and finishing materials give the building a similar rural appearance to the adjacent stable buildings. The building is not prominent in public views and the Council has not objected to the proposal's impact on the landscape character. I have no substantive reason to disagree, but this is a matter of neutral weight.
23. I have had regard to the appeal decision, submitted by the appellants, in relation to a temporary agricultural worker's dwelling and livestock building at Luton Road⁴ (Central Bedfordshire). I note that the Inspector finds that a temporary agricultural dwelling would be inappropriate development and that, whilst the Inspector finds the proposed agricultural enterprise of 1000 head of livestock would justify the need for the dwelling, overall, he finds the benefits do not outweigh the harm to the Green Belt and to the character and appearance of the countryside. The appeal decision advises that substantial weight should be given to any harm to the Green Belt and reaffirms that rural workers' dwellings are inappropriate development in the Green Belt. However, without full details regarding the appeal, only limited comparisons with the current appeal can be drawn. As such, I attach only very limited weight to the appeal decision in assessing the current appeal.
24. I have also had regard to the delegated report¹ for a subsequently granted permission for a farmhouse at the Luton Road site. Based on the limited information before me, it was found that the development '...while having a limited impact on the openness of the Green Belt, is an appropriate use for this

⁴ APP/P0240/W/15/3026349 – Appellants' Statement Appendix 6

location and is not harmful'. In absence of comprehensive detail on why such a conclusion was reached, and noting the Framework polices with regards to Green Belt, I can give this only very limited weight in assessing the current appeal.

25. I have also had regard to the Thorneylee Stables⁵ appeal in relation to a temporary dwelling for a rural worker at a professional livery and horse breeding site near Daventry. However, I have not been provided with full details of the appeal and cannot, therefore, be sure to what extent it is comparable to the existing appeal. It is located in a different local authority area and, significantly, is not within the Green Belt. Given the lack of information, I attach only limited weight to this appeal in so far as the Inspector finds an essential need for a dwelling to support an equestrian enterprise that focuses on higher value horses. Notwithstanding the above appeals, the apportionment of weight to particular harms and benefits is a matter for the decision maker in each case, and accordingly, I have considered this appeal on its own merits.
26. The development would support an existing rural business and is therefore supported by paragraph 83 of the Framework, which advises that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas through well-designed new buildings. Whilst the business has not yet demonstrated that it can support a full-time worker on a minimum wage, I am satisfied that growth of the business would be possible with the construction of an on-site dwelling. This would not only be beneficial to the appellants, but also to other businesses in the area, such as feed suppliers, vets and farriers. However, even considering the growth planned by the appellants, the enterprise would remain small-scale. As such, I give only moderate weight to the economic benefits of the development.
27. The benefits in terms of animal welfare (rather than benefits to the business as a result of the improvements to animal welfare) attract only very limited weight as it is a matter more properly dealt with under other legislation.

Planning Balance and Conclusion

28. On the evidence before me, I accept that the appellants' use of the site has demonstrated an essential need for a worker to live on-site due to security and animal welfare requirements. The proposal therefore accords with paragraph 79 of the Framework and would make a limited contribution to the Government's objective of significantly boosting the supply of homes. However, as the proposal is for only a single dwelling, the benefit to housing supply attracts only limited weight. I have also taken into consideration that the appellants are willing to accept a temporary permission of 3 years and that the impact could be limited to that period, with any further permission being considered at that time in the light of the business that has developed.
29. The dwelling would, however, be inappropriate development which is, by definition, harmful. There would also be harm to the openness of the Green Belt and conflict with one of the purposes of including land within it. These matters attract substantial weight against the development. The Framework notes that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other

⁵ Appeal Ref: APP/Y2810/W/17/3184583 – Appellants' Statement Appendix 8

harm, is clearly outweighed by other considerations. Having considered all matters raised in support of the development, they collectively would not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist and, therefore, to allow the appeal would be contrary to paragraph 144 of the Framework and ELP Policy SP4.

30. The Council has not found conflict with the development plan and I have no reason to disagree. Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted, where the development plan is absent, silent or relevant policies are out-of-date, unless application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Green Belt is one such area or asset and, given I have found very special circumstances do not exist, the proposal would not amount to sustainable development. I find, therefore, that there are material considerations of sufficient weight to indicate that permission should be withheld.
31. For the reasons given above, the appeal is dismissed.

S D Castle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Victoria Davies BA (Hons), Dip EP, MRTPI

DLA Town Planning Ltd

Tanya Wilson

Appellant

Sean Banks

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Tucker

Central Bedfordshire Council

INTERESTED PERSONS:

Adam Richardson

Eaton Bray Parish Council