



Appeal Decision

Site visit made on 28 July 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/P0119/C/20/3244305

Land at Stockleaze, Latteridge Lane, Bristol BS35 3TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Smith against an enforcement notice issued by South Gloucestershire Council.
- The enforcement notice was issued on 10 December 2019.
- The breach of planning control as alleged in the notice is without planning permission, change of use of land from agriculture and pigeon keeping to a mixed use of agriculture, pigeon keeping, residential use and use as a caravan site.
- The requirements of the notice are: 1. Cease the residential occupation of the land and remove the gazebo and all domestic paraphernalia items from the land. 2. Remove the caravan from the land. 3. Remove all non-agricultural motor vehicles and all non-agricultural trailers from the land.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.

Preliminary Matter

1. The enforcement notice at paragraph 5 step 3, requires the removal of all non-agricultural motor vehicles and trailers from the land. However, this purports to prohibit vehicles associated with a use which is not attacked by the notice, i.e. the keeping of pigeons. It also ostensibly prohibits vehicles associated with as yet unsubstantiated future breaches of planning control. In both respects, the step exceeds what is necessary to remedy the alleged breach specified in the notice. Accordingly, I shall vary the notice so that step 3 only requires the removal of vehicles associated with the residential use. In doing so, there would be no injustice.

Ground (a) appeal

Main Issues

2. The appeal site is located within the Bristol and Bath Green Belt. Therefore, the main issues in the appeal are:
 - Whether the use as a residential caravan site constitutes inappropriate development, having regard to the National Planning Policy Framework (the Framework) and the Development Plan.
 - The effect on openness.

- Whether there would be an essential need for a rural worker to live permanently at the site.
- Whether this is a suitable location for residential accommodation, having regard to access to services and facilities.
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify granting planning permission for the development.

Reasons

Whether inappropriate development

3. The site consists of a relatively small field in open countryside. A static caravan has been stationed on part of the site and is used for residential purposes. Use as a residential caravan site falls outside of the limited forms of development set out in the Framework as not being inappropriate in the Green Belt. Therefore, the use constitutes inappropriate development.
4. The Framework paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Inappropriate development does not accord with criteria in Policy CS5 and Policy CS34 of the South Gloucestershire Local Plan: Core Strategy (CS) and Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (PSP), all of which are consistent with the Framework. I afford substantial weight to the harm to the Green Belt caused by the inappropriateness of the use.

Effect on openness

5. The Framework paragraph 133 advises that openness is an essential characteristic of the Green Belt.
6. Prior to the use commencing, the site would have been largely open. However, the stationing of a residential caravan together with the gazebo, hard surfacing, fencing and domestic paraphernalia also associated with the use, has resulted in a significant part of the site being covered by man-made structures, as well as being enclosed by and adjacent to such structures. The effect has been a corresponding significant reduction in openness. The adverse effect on openness is apparent from the site entrance and is likely to be further in evidence from Latteridge Lane during the winter and early spring. Additional screen planting might soften the visual effects of the use but would not address the adverse effect on openness in spatial terms.
7. Accordingly, the use has resulted in an appreciable adverse effect on and a significant degree of harm to, the openness of the Green Belt, in addition to the harm arising by reason of inappropriateness.

Whether there would be an essential need for a rural worker to live at the site

8. The Framework paragraph 79 advises that isolated homes in the countryside should be avoided, except in circumstances such as where there is an essential need for a rural worker to live permanently at or near their place of work.

9. The appellant plans to develop a racing pigeon breeding business at the site. I understand that the appellant has kept pigeons since childhood; he races the birds nationally and internationally and has also bred them for many years. A pigeon loft recently erected at the site has planning permission¹. From the details supplied, the appellant already keeps around 100 breeding birds as a hobby. It is planned to significantly increase the number of birds kept at the site, initially to 120 breeding pairs annually producing a total of 480 young birds (squabs), ultimately rising to between 250-300 breeding pairs. The appellant also plans to participate in 'one loft' races, where competitors pay for the keeping and training of their pigeons at a loft prior to racing, an activity which I am given to understand attracts a substantial cash sum for race winners. Additionally, the appellant plans to supplement his income from the pigeon-related business by keeping a breeding herd of around 10 alpacas.
10. According to the appellant, the business would require at least one full-time worker. However, it is not clear how that conclusion has been reached. It was not explained where the estimated figures of 4 hours per day for the monitoring of 120 breeding pairs and 2-3 hours per day for exercising the birds were derived from. There was no breakdown provided of the activities that would normally be undertaken by a worker and of the amount of time typically spent on those activities. Consequently, there was no firm evidence to show that the sum of activities undertaken in connection with the business would be equivalent in terms of man hours to that of a full-time worker.
11. Continuous supervision during the breeding and gestation periods, following birth of the squabs and whilst they are grown on, monitoring the loft environment to ensure bird health and welfare as well as feeding and daily exercise of the birds and cleaning out the loft at the end of breeding cycles, were among activities described as requiring the on-site presence of a worker at most times. Also, the appellant stated that pregnant alpacas needed careful monitoring to produce healthy young (cria). Providing security for high value livestock was also referred to as supporting an on-site residential presence.
12. Correct pairing of the birds to ensure the blood lines of squabs and to avoid fights and injuries, together with rearing the squabs and monitoring the loft temperature, are matters that might benefit from some supervision. Even so, it is not clear why those activities would make an on-site residential presence essential. There was no firm evidence to show that any problems such as a loss of squabs through death or disease were especially prevalent in pigeon breeding, or that such problems would have significant financial consequences, risking the viability of the business. For similar reasons, there was no firm evidence to show that keeping a small alpaca herd would require an on-site residential presence. In any event, no explanation was offered as to why remote systems such as CCTV would not enable monitoring of the site to detect livestock problems outside of normal working hours. Equally, there was no explanation as to why the loft temperature could not be controlled automatically by a ventilation system. There was no firm evidence to suggest that such systems could not be as efficient as having someone living on site in a caravan.
13. Routine activities such as feeding, general care and cleaning out the loft, are likely to be undertaken during the normal working day. I understand that the

¹ Council Ref: PK18/4702/F.

appellant usually exercises his birds in the early morning and that growing birds are moved around the loft at a similar time of day, to minimise the stress caused to them. However, in my view it is likely that the working day would normally be adjusted in line with the hours of daylight available according to the time of year, to accommodate such activities. Therefore, none of these factors indicate that an on-site residential presence is essential.

14. Additionally, whilst there might be a security benefit in having a worker on site at most times, to prevent incidences of vandalism or theft of stock and to deter predation by wild animals, there was no firm evidence to show that such incidents were likely or that installing additional security measures, such as an alarm system, would not be just as effective.
15. Moreover, the existing loft is likely to require significant enlargement to accommodate the planned substantial increase in the number of birds kept there. I understand that to date, planning permission has not been sought to enlarge the loft. Whether planning permission would be forthcoming for the loft to be enlarged is therefore uncertain. As a result, currently there is also little assurance that the facilities necessary to develop the business could be provided.
16. The appellant estimated that the business would generate an annual income of around £14,400 per annum based on 120 breeding pairs of birds, with each squab produced selling at around £30-£45. However, the appellant did not set out any firm timescale for expanding the business to achieve that level of income, as it was only planned to work towards increasing the number of breeding pairs by year 3. No detailed business plan was supplied, for example clearly setting out the projected levels of income for the first three years, indicating when the estimated income might reasonably be expected to be achieved, or when expansion to in excess of 250 breeding pairs might occur. Also, as no details of the projected income from the one loft races or the alpaca herd were provided, the revenue that might be derived from those activities is speculative at best. As a result, the level of income that the business might generate in practice is not clear.
17. Although I appreciate that squabs produced by the appellant would be of high quality, there was no firm evidence which might indicate that their planned pricing was a realistic reflection of the current market value and was competitive with that of other similar breeders. Furthermore, there was little to indicate what had been undertaken by way of market research, for example by making enquiries concerning the likely level of consumer demand for pigeons bred at the site. The relative popularity of pigeon racing and the appellant's expertise in pigeon breeding do not necessarily mean that he would be able to develop a successful business, particularly when the uncertain economic conditions currently prevailing are also factored in.
18. Furthermore, the appellant's estimated income does not appear to take account of any of the likely costs associated with establishing and running the business, including factors such as the investment required for enlarging his loft and for additional stock acquisition, together with day-to-day matters such as the purchase of feed, veterinary bills, utility bills and insurance. There were no comparisons made with successful businesses of a similar nature and scale. In any event, the estimated income from the business falls below what a worker on the national minimum wage might reasonably expect to earn annually. This

all adds to the uncertainty over whether the business could sustain a full-time worker. Accordingly, it is not clear whether there is a firm commitment and ability to develop a business which would be viable and likely to remain so in the longer term.

19. Drawing all these matters together, I am not persuaded that the appellant's planned business would generate a labour requirement sufficient to support a full-time worker, that there would be a need for such a worker to be present on site at most times, and; that the business would be viable and have a realistic prospect of remaining so in the longer term. Therefore, I find that there would not be an essential need for a rural worker to live at the site.
20. The appellant suggested that a rural location was necessary for the business. I acknowledge that keeping a substantial number of pigeons in a built-up area could give rise to problems with residential neighbours including noise, disturbance and odours, and; that a rural setting might be advantageous, with greater open space around the loft, being free from urban disturbances and having a reduced risk of predation by domestic pets. Even so, these factors are not indicative of a need for a worker to live at the site. Also, in the absence of such a need a lack of suitable and available housing in the immediate area carries little weight.
21. Without an essential need for a rural worker to live permanently at their place of work, the use is inconsistent with the Framework paragraph 79. Also, the use does not accord with Policy PSP40 and PSP41, as the functional and financial tests set out in the latter, which establish whether there would be an essential requirement for residential accommodation to support a new rural business, have not been satisfied.

Access to services and facilities

22. Thornbury, the nearest settlement containing a range of shopping, education and recreational opportunities as well as healthcare provision, is around 4.5 kilometres from the site. Access from the site is via roads which for significant parts are of limited width, lack segregated footways, are subject to the national speed limit and are unlit. As a result, the site does not afford convenient, safe access to local services and facilities for pedestrians and cyclists. Also, as far as I am aware, the site does not have convenient, safe links to regular bus services accessing Thornbury or wider destinations. This means that residential occupiers of the site are likely to be almost entirely dependent on the private car for their day-to-day transport needs. As a result, the site is not suitably located for residential accommodation, as the reliance on the private car to access services and facilities does not promote a modal shift to more sustainable forms of transport.
23. Therefore, the use fails to accord with criterion in Policy CS8, as it is car-dependent and promotes unsustainable travel behaviour. Due to the failure to accord with other CS policies, the use also does not accord with Policy CS4A. In addition, there is failure to accord with criterion in Policy PSP11, as the use is not located on a safe, useable, walking and/or cycling route an appropriate distance from key services and facilities or on a safe, useable walking route a convenient distance from an appropriate public transport service connecting to destinations with such services and facilities. Furthermore, by not promoting sustainable transport opportunities, the use is inconsistent with the Framework chapter 9.

Green Belt Balance

24. The use constitutes inappropriate development in the Green Belt and has had an adverse effect on openness. There would be no essential need for a rural worker to live permanently at the site. Also, the site is not in a suitable location in terms of the access to services and facilities. Therefore, other considerations do not clearly outweigh the totality of the harm to the Green Belt. It follows that the very special circumstances required to justify granting planning permission do not exist.

Conclusion

25. For the reasons given above I conclude that the use is inconsistent with the Framework and it does not accord with the Development Plan. Therefore, the appeal does not succeed. I shall uphold the enforcement notice with variation and refuse to grant planning permission on the deemed application.

Formal Decision

26. It is directed that the enforcement notice is varied by deleting paragraph 5, step 3 and substituting it with the following step 3: "Remove all motor vehicles and trailers associated with the residential use from the land". Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177 (5) of the 1990 Act.

Stephen Hawkins

INSPECTOR