The Planning Inspectorate

Appeal Decision

Site visit made on 23 July 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/P2935/W/20/3247129
Land North of Heugh Mill Farm, Stamfordham NE18 0PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by D Wilkinson against Northumberland County Council.
- The application Ref 19/04829/FUL, is dated 6 December 2019.
- The development proposed is the siting of 1no. chalet and part change of use of 1no. barn.

Decision

1. The appeal is allowed and planning permission is granted for the siting of 1no. chalet and part change of use of 1no. barn at Land North of Heugh Mill Farm, Stamfordham NE18 0PS in accordance with the terms of the application, Ref 19/04829/FUL, dated 6 December 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by D Wilkinson against Northumberland County Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Consent is sought for a temporary period of three years, the appellant details that this is to allow the business to be established on site and to demonstrate the ongoing viability of the business.

4. The appeal arises from the Council's failure to determine the application. Following the submission of the appeal against non-determination, the Council resolved that they were minded to refuse the application for three reasons relating to the viability of the business, the greenbelt location of the appeal site and the effect of the proposed chalet on the character and appearance of the area.

Main Issues

5. The main issues are:

   i. Whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;

   ii. The effect on openness and the purposes of including land within of the Green Belt;

iii. the effect on the character and appearance of the area

iv. Whether there is an essential need for a rural worker to live permanently at the site; and

v. 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

Whether the proposal is inappropriate development within the Green Belt

6. 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. This approach is largely consistent in saved Policy C17 of the Castle Morpeth District Local Plan (the LP), which sets out that applications for development in the Green Belt will be determined in line with national planning guidance on Green Belts and other relevant policies within the development plan.

7. 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.

8. Therefore, as the proposal is for a new building, it would be inappropriate development. 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 openness and the purposes of including land within the Green Belt

9. 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 it to assist in safeguarding the countryside from encroachment.

10. Whilst the dwelling is shown on the submitted plans as being of a moderate size, the introduction of built form in a place that is currently void of development would reduce openness and would ultimately encroach into the countryside. The effect upon openness and the purposes of the Green Belt would be in conflict with Policy C17 of the LP and the Framework.

Character and appearance

11. Saved Policies H15 and H16 of the LP Policy set out the general considerations for the design of new housing and specifically housing in the countryside, requiring that "the form, style, and materials of the new dwelling shall harmonise with existing traditional buildings".

12. I note that while the proposed dwelling is of a low-lying design, it is clearly not of a style or constructed of materials that are typically found in this area. Therefore, I find that the proposed dwelling would harm the character and appearance of the area contrary to saved policies H15 and H16 of the LP.

Essential need for a rural worker

13. The Framework sets out at paragraph 79 that planning decisions should avoid the development of isolated homes in the countryside unless, amongst other matters, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

14. Saved Policy H16 of the LP details that new permanent dwellings will be allowed to support existing agricultural activities on established agricultural units, providing, amongst other things:

ii) there is a clearly established essential need; and,

iii) the unit and agricultural activity have been established for at least three years, is financially sound and has been profitable for at least 1 of the last three years.

15. These provisions are not dissimilar to the considerations for the assessment of isolated homes in the countryside for essential rural workers as set out in the Planning Practice Guidance[1] (PPG).

16. In the course of determining the application the Council commissioned an independent report[2] that identified that the need was based around security to prevent theft and the need for frequent checks and care, particularly with regards foals and pregnant mares. The report concluded that there is "evidence of a functional need for a worker to be resident at this location" and I have no substantive evidence before me that would lead me to conclude otherwise.

17. Turning to the financial situation of the enterprise, I noted at the site visit that there were a number of horses in the stables and in the adjacent fields with workers tending to jobs at the site, therefore the enterprise is clearly established ,albeit at a very early stage. The Officer's report to committee equates viability with the generation of profit of around £21,000, a sum detailed in the independent report as being sufficient to sustain a full-time worker, no substantive evidence is provided to support this figure.

18. The appellant has submitted various financial forecasts that show the enterprise making an initial loss in the first year before being increasingly profitable thereafter. A sizable portion of the predicted revenue in the early years of the business results from the Basic Payment Scheme and Countryside Stewardship Scheme, with further and growing income from the sale of foals and semen.

19. The independent report identifies that accounting practices relating to the value of foals will result in "higher income in the earlier years of the business plan than the cash flow forecasts indicate". The viability of the business may therefore be better that is indicated in the appellant's forecasts.

20. On the basis of the evidence before me and on the basis that temporary consent only is sought at this stage, I find that the business is projected to be viable within a reasonable period of time.

[1] Paragraph: 010 Reference ID: 67-010-20190722
[2] Report on the proposed siting of 1 no chalet and part change of use of 1 no barn. AG & P Jackson, dated February 2020

21. For the reasons detailed above I find that it has been demonstrated that there is an essential need for a rural worker to live permanently at the site in compliance with LP Policy H16, guidance set out in the PPG and the Framework.

Other Matters

22. The appellant reaffirms that consent is sought for the dwelling for a temporary period only and I am satisfied that a condition could be attached to any permission resulting from this appeal requiring the removal of the dwelling at the end of the temporary period and reinstatement of the site to the current condition.

23. Representations from the Council's Public Protection relate to information needed to satisfy concerns regarding land contamination (including Radon gas), and foul water treatment. On the basis of the evidence before me I am satisfied that suitably worded conditions could be attached to any planning permission resulting from the appeal requiring the submission and subsequent implementation of the necessary details.

24. It is not at dispute between the parties that the part change of use of 1no. barn would accord with Saved Policy E6 of the Castle Morpeth District Local Plan (the LP) in so far as they relate to the adaptation and reuse of rural buildings and the National Planning Policy Framework (the Framework), with regards the reuse of buildings in the Greenbelt. As such, on the basis of the evidence before me I find this part of the appeal scheme is acceptable.

25. I note the significant number of objections made in respect of the application; I have carefully considered the points raised in the main issues of this Appeal. A number of respondents have raised concern with regards the evolution of the proposed development on this site through a number of planning applications, I have however determined the Appeal on the basis of the evidence before me.

Green Belt balancing exercise

26. The proposed dwelling constitutes inappropriate development in the Green Belt, would reduce the openness of the Green Belt and would harm the character and appearance of the area. In accordance with paragraph 144 of the Framework, I give substantial weight to the harm to the Green Belt. However, based on the evidence before me, there is an essential need for a residential presence on site. The proposal would therefore meet the circumstance of Paragraph 79(a) of the Framework in respect of isolated homes in the countryside and would also comply with the policies of the Framework in respect of supporting a prosperous rural economy. I attach very substantial weight to this essential requirement and the benefits arising from the proposal.

27. I have found that the proposed dwelling would harm the character and appearance of the area. However, this harm would exist for the duration of the temporary consent only and no doubt the temporary nature of the proposed chalet substantially influences the character and appearance of the dwelling. A dwelling in keeping with the form, style, and materials of dwellings in the surrounding area would by its very nature, have a greater degree of permanency, at odds with the temporary nature of the proposal. The proposed dwelling is therefore a reasonable compromise given the temporary nature of the proposal.

28. I find that the other considerations in this case, namely the essential need for a rural worker to live on the site and the temporary nature of the dwelling secured by an appropriate condition, clearly outweigh the harm to the Green Belt and character and appearance of the area that I have identified. Very special circumstances necessary to justify the development have therefore been demonstrated. Due to the identified very special circumstances, the proposal would not conflict with the Framework in respect of protecting Green Belt land.

Conclusion and Conditions

29. The Council has provided a list of suggested conditions, I have considered these in light of the guidance set out on the Planning Practice Guidance (PPG) and in the interests of certainty I have included conditions controlling the life of the permission and the plans. To ensure that the dwelling is temporary only, I have included a condition limiting the permission to 3 years and a further condition requiring its removal and the restoration of the land.

30. I have also included a condition restricting the occupation of the dwelling to a person solely or mainly working at the equestrian enterprise to prevent the unrestricted occupation of a new dwelling in the Green Belt and countryside in preference to the Council's request for a personal permission.

31. In the interests of the living conditions of future occupiers I have included conditions relating to Foul water treatment, radon gas and unidentified contamination.

32. I have not included conditions referring to the provision of parking, refuse, compliance with the Planning Statement and the Ecology Report, water supply, the removal of vegetation and a landscaping and planting scheme because such conditions fail the tests of set out in the PPG.

33. For the reasons given above I conclude that the appeal should be allowed and planning permission is granted.

Mark Brooker

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan – ALN510970-06A; Proposed Site Plan – ALN510970-07A; Proposed Plans and Elevations – Chalet; Proposed Floor Plans – Barns.

3) The dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

4) The dwelling and residential use of the land hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The dwelling hereby permitted shall be removed and the use of the land for residential purposes hereby permitted shall be discontinued and the land restored to its former condition within 3 years and 1 month of the date of this decision in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

5) The occupation of the dwelling shall be limited to a person solely or mainly working at the associated equine enterprise, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

6) The dwelling hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

7) No construction beyond foundation excavation for the dwelling shall be carried out until a report detailing the protective measures to prevent the ingress of ground gases, including radon, to the CS2 standard specified in BS8485:2015 (Code of Practice for the design of protective measures for Methane and Carbon Dioxide ground gases for new buildings), have been submitted to and approved in writing by the Local Planning Authority.

   The report shall contain full details of the validation and verification assessment to be undertaken on the installed ground gas protection, as detailed in CIRIA C735 (Good practice on the testing and verification of protection systems for buildings against hazardous ground gases).

8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.

End of Schedule