



Appeal Decision

Hearing Held on 18 November 2020

Site visit made on 19 November 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2020

Appeal Ref: APP/N4720/W/20/3254236

Land adjacent to Clifford Moor Farm, Rhodes Lane, Wetherby LS23 6LQ

- 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 Burlingham against the decision of Leeds City Council.
 - The application Ref 19/000010/FU, dated 2 January 2019, was refused by notice dated 13 December 2019.
 - The development proposed is described as the siting of a temporary agricultural workers dwelling (3 years).
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is in the Green Belt and so the main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt;
 - Whether the development would constitute an isolated home in the countryside and, if so, whether 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 effect of the proposal on the character and appearance of the countryside; 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 development.

Reasons

Whether Inappropriate Development and Effect on the Purposes of Green Belt

3. It is of note that the Council's delegated officer report states that "*the principle of a static caravan to offer on-site accommodation for an agricultural worker would meet one of the exceptions to the Framework's policy*". I questioned both of the main parties on this matter at the hearing based on a static

caravan which the appellant has confirmed would measure 12.8 m (length) x 4.0 m (width) x 3.0 m (eaves height). There is no dispute between the main parties that the static caravan would not constitute the construction of a building. The appellant confirmed that the caravan would be brought onto the site on the back of a low loader and that it would have wheels. Whilst it may be subsequently pegged to the ground, for stability reasons given potential poor weather conditions, it was stated that it would be capable of being easily moved off the site.

4. In respect of this matter, paragraph 145 a) of the National Planning Policy Framework 2019 (the Framework) states that the construction of new buildings is inappropriate in the Green Belt unless they are "*buildings for agriculture of forestry*". As the static caravan would not be a building it would not meet the exceptions in paragraph 145 a) of the Framework.
5. The main parties agreed at the hearing that the proposal would comprise a material change of use of the land. Paragraph 146 e) of the Framework states that material changes in the use of land may not be inappropriate development in the Green Belt "*provided they preserve its openness and do not conflict with the purposes of including land within it*".
6. The residential unit would be sited on a grassed area to the east of the majority of the existing tight-knit cluster of facilities including a two storey barn building (used on my site visit for storing hay and farrowing), tents/pens occupying pigs, timber sheds housing hens, storage containers and vehicles/machinery. It would be on the edge of the existing facilities, on elevated land and on part of the site that is currently devoid of built form. In spatial terms, there would therefore be some harm to the openness of the Green Belt.
7. I accept that in considering the visual dimension of the effect on openness, the static caravan would not be conspicuous when viewed from the A1 motorway given the position of the existing development and more particularly the rising land and vegetation afforded to this highway. In addition, the topography of the intervening fields is such that it would not be conspicuous when viewed from the access road to the east. However, it would be positioned on elevated land and would be visible from the hard surfaced public right of way to the south which leads to the bridge over the A1 motorway and then to Collingham. I noticed on my site visit that this public right of way was in use by walkers and cyclists.
8. Overall, and for the above reasons, I find that that the openness of the Green Belt would not be preserved. Owing to the position of the static caravan, which would be on the edge of the existing cluster of development, there would also be some encroachment into the countryside. Hence, the proposal would, to a limited degree, conflict with one of the purposes of Green Belt which is to safeguard the countryside from encroachment.
9. I therefore conclude that the proposal would conflict with one of the purposes of Green Belt and that it would amount to inappropriate development in the Green Belt. The latter is a matter to which I afford substantial weight in the overall planning balance. In these respects, the proposal would not accord with saved policy N33 of the Leeds Unitary Development Plan (review 2006) or with Chapter 13 of the Framework. It is of note that paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to

the Green Belt and should not be approved except in very special circumstances.

Whether an Essential Need

10. The appellant's agricultural enterprise currently comprises a breeding herd of 60 sows and 300 hens (historically there have been 1000 hens). The pigs are usually fattened up until approximately six months old when they are then taken to an auction and sold for about £150 each. The appellant states that at any one time there could be up to 300 "fat" pigs on site. At present, the appellant carries out most of the work on the site, although he does have some occasional assistance from his son. They both live at Allerton Park which is about twelve miles away.
11. The appellant has indicated that he needs to be on site to ensure the welfare of the pigs. He says that farrowing takes place about 180 times per annum with an average litter of 15 piglets: it is said that about a third of the litter is currently lost. The appellant comments that this is because when the litters get mixed up, the piglets lose sight and sound of their mothers. He says that it is necessary to be on site all the time to ensure that the piglets and sows do not get mixed up. Therefore, he claims that a 'permanent' on-site residential presence is justified on the basis of swift intervention taking place to ensure that the piglets get the milk that they need to thrive and also so they do not become distressed. In addition, the appellant says that he needs to undertake other regular tasks such as feeding, teeth clipping and injections seven days a week.
12. There is no dispute between the parties that some sows might need assistance when giving birth. I note the appellant's view that it is important that piglets and sows do not get mixed up particularly when they need milk. However, the appellant confirmed at the hearing that arrangements are in place to ensure that sows and new-born piglets are kept in separate pens. Indeed, I was able to see this arrangement in the two storey barn building as part of my site visit.
13. I consider that it is very likely that the appellant would know some time in advance when farrowing was likely to take place. I appreciate that the current arrangements are such that farrowing can take place on a regular basis. However, I agree with the Council's Agricultural Surveyor that it would be possible to increase the amount of batch farrowing of sows by careful timing of insemination so that sows are not farrowing as much. This in turn would then diminish the need to permanently reside on the site to attend to vulnerable sows or piglets.
14. The appellant commented at the hearing that batch farrowing would have the potential to 'flood the market' in terms of sales and hence that this could have a negative effect on the amount of money received. There is no reasonable or objective evidence before me to suggest that the scale of operations at the appeal site is such that a change to the way that farrowing takes place would have any significant impact in terms of market forces, or indeed that it would lead to a material loss of income.
15. At the hearing, I questioned the appellant in terms of why he had not explored the possibility of living close to the site so that he could be on hand, within short notice, to deal with vulnerable sows or piglets. Indeed, the settlement of Clifford is only about 800 metres from the site. Boston Spa is also in relatively

close proximity. I do not know whether the appellant owns his property about 12 miles away and hence whether he would have funds available to buy another house in the immediate area should any such owned property be sold.

16. The appellant commented at the hearing that houses in Clifford were generally large and that it would be expensive to buy in this area. Whilst the Council did not disagree with this general view, the appellant was nonetheless unable to provide any credible reason as to why he had not at least considered the possibility of renting an available property in one of the nearby settlements. Whilst I accept that he would prefer to live on the site, the settlements of Clifford and Boston Spa are quite close to the appeal site and with some changes to the management of farrowing activity, I consider that the ability to occupy/rent a dwelling in these settlements would provide the appellant the opportunity to be quickly on hand in the event that vulnerable animals needed assistance. I am not, therefore, satisfied that this option has been fully and reasonably explored.
17. For the collective above reasons, I conclude that a case has not been made that it is essential for the appellant to live permanently on the appeal site for animal welfare reasons.

Isolated Home

18. At the hearing, I questioned the main parties in terms of whether they considered that the proposal would lead to the provision of an isolated home taking into account paragraph 79 of the Framework. As a matter of fact and degree, I consider that the proposal would lead to the provision of an isolated home in so far that it would be far away from other places, buildings and people. At the hearing, the main parties did not disagree that the proposed static caravan would result in the provision of an isolated home in the countryside.
19. In the context of the proposed siting of an isolated home, the appeal therefore needs to be determined against one of the exceptional circumstances outlined in paragraph 79(a) of the Framework which is where *"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"*. I deal with this matter below.

Whether a Need to Live Permanently on the Site

20. In order to consider whether the proposed residential static caravan would be justified for a period of three years, it is necessary to consider the long term prospects of the proposed agricultural enterprise.
21. Whilst the planning application is made on the basis of a temporary permission, it is of note that the agricultural operation on the site has been ongoing since 2012 when the appellant bought the land. Notwithstanding this, the appellant has only submitted audited accounts for the period 2018 and 2019. It is therefore difficult to establish business trends from 2012 to 2019.
22. Notwithstanding the above, the submitted accounts show that in 2018 the net profit was -£33,664 and in 2019 it was £1252. The evidence does not show that a salary was drawn during these times for the appellant, although the accounts do show that £5,634 appears to have been drawn for the appellant's son, Mr Adam Burlingham. At the hearing, I questioned Mr Adam Burlingham

on this matter and he could not confirm what the £5,634 payment was for. He did, however, clarify that wages had not be drawn from the business so far and that instead all money had been kept in the business which had grown from an initial "hobby" type facility in the earlier years.

23. The aforementioned net profit takes into account "other income" under the subheadings of "contracting work" and "other income" which respectively total £18,376 for 2019 and £3,901 for 2018. The "other income" is shown as separate from the turnover for pig and sheep sales and from pork and eggs. At the hearing, it was confirmed that this related to employment activity which was not directly related to the agricultural enterprise on the appeal site. Indeed, the appellant confirmed at the hearing that it related to *"hay making"* and the use of / hiring out of his machinery on other sites. It is clearly not necessary to live on site in respect of the unrelated *"other income"* employment activities. In this regard, and on the basis that this income is not taken into account in the accounts, there is no reasonable evidence before me to indicate that the agricultural activities on the appeal site have ever delivered a net profit or will deliver a net profit in the future.
24. In addition to the above, it is of note that it is claimed that pig sales accounted for £25,110 in 2019 and £19,647 in 2018. These sales are not reasonably corroborated. I would have expected to see animal movement records and/or financial transactions to support these figures particularly in respect of sale activity relating to private buyers and at locations such as Otley Auction. I acknowledge that there is a letter from Appleton's who say that they purchase *"up to"* 10 pig carcasses a week and that it has been taking place *"for a number of months"* and also from Costcutter where it is stated that *"we have been ordering pork and eggs from Mr Burlingham on a weekly basis since the beginning of the year and will continue to do so to meet the needs of our business"*. These claims are not supported by detailed financial evidence and, in any event, it does not provide very detailed information in terms of how long this has been going on, whether there is a secure contractual relationship between the parties and indeed what exact number of carcasses have been sold per week.
25. At the hearing, the appellant confirmed that he owned all of the 4 acres of land shown on the planning application drawings. In this regard, I am satisfied that the appellant has enough land ownership control to develop the enterprise going forward. I note the Council's concern about the fact that most of the feed is brought onto the site, and animal waste taken away, and the claim that this casts doubt about whether the business would be sustainable in the long term. However, I do not consider that these arrangements are in themselves unacceptable and I am persuaded by the appellant that there would likely be demand for slurry/muck from many landowners in the area, even if current arrangements were to cease.
26. Overall, the evidence is such that it does not show to me that the business can reasonably sustain an agricultural worker. Furthermore, I find that there is no reasonable evidence to demonstrate that in the next three years the enterprise has been planned on a sound financial basis or that it would be financially viable. In addition, there is no credible evidence of a firm intention and ability to further develop the enterprise concerned. Whilst the proposal is for a residential caravan for three years, I would have expected to see a business plan over the next three years including profit and investment forecasts. That

has not been provided and whilst the appellant says that the business has been doing well since the last accounts were produced, I have no objective evidence before me to substantiate such a claim.

27. I do not doubt that the appellant has invested money in stock and the site since 2012, but that in itself does not mean that going forward the agricultural enterprise could reasonably support a full time residential presence, even for a temporary three year period. I reach this decision in the knowledge of the comment made by the appellant at the hearing that he has had to change his business owing to Covid 19 and that "supply chains" have increased. Again, I have no detailed evidence before me to support this comment.
28. At the hearing, there was some dispute about the labour force calculations provided by the appellant. The main parties did at least agree that the hourly rates were not quite right. However, given my collective findings above, this is not in fact a determinative issue. This is because, a finding that the labour force calculations were accurate would not in any event overcome or outweigh my overall conclusion on the main issues.
29. I conclude that I am not persuaded that a case has been made to justify permanently living on the site for the next three years. The proposal does not therefore meet any of the exceptional circumstances as listed in paragraph 79 (a) to (e) of the Framework.

Any Other Harm - Character and Appearance of the Countryside

30. I have already found above that there would be some limited harm to the openness of the Green Belt and that there would be some countryside encroachment. This area is characterised by mainly open fields with sporadic clusters of small development. The caravan would be positioned on elevated land, adjacent to a small wooden stable building, and on the edge of the cluster of existing structures and buildings which are mainly confined to land at a much lower level.
31. There would be views of it from the public right of way to the south which leads to the motorway bridge over the A1 motorway. I accept that there is other development on the site, but this has a more rural character and appearance and, furthermore, the proposal would have the effect of extending built form into the countryside including the potential for at least some associated domestic paraphernalia, even if that were to be closely related to the positioning of the caravan.
32. I find that to a limited degree the proposal would erode the essentially open and rural character and appearance of this part of the countryside. I accept that the adverse effects would be quite localised, but nonetheless harm would be caused. I acknowledge that it is proposed to site the caravan on the site for a temporary three year period. However, that would not be a very short period of time and it does not therefore alter my view about the overall limited harm that would be caused to the character and appearance of the countryside.
33. I conclude that some limited harm would be caused by the proposal to the character and appearance of the countryside and hence that it would conflict with paragraph 170(b) of the Framework which states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Considerations

34. I do not doubt that it would be more convenient to live on the site. Indeed, the appellant and his son live more than 12 miles away from the site. There would be some environmental benefits associated with reducing the number of motorised journeys to and from the site. However, such benefits need to be balanced against my conclusions on the main issues above, including the potential for the appellant to explore renting a property within a settlement that is, in relative terms, nearer to the site.
35. I recognise that farming the land does have some economic benefits. However, I do not consider that the proposal fully accords with Spatial Policy 8 of the adopted Leeds Core Strategy 2014 (as amended 2019) (CS) in so far that whilst this policy supports the growth and diversification of the rural economy this should be consistent with the "*protection and enhancement of a high quality rural environment*". I have found harm would be caused to the Green Belt because of the fact that the proposal would be inappropriate development and owing to the harm to openness and because of encroachment into the countryside. Furthermore, I have concluded that there is not an essential need for a rural worker to live on the site, but that does not mean that the farming activity could not continue on the land.

Planning Balance and Conclusion

36. The proposal would constitute inappropriate development in the Green Belt. This is a matter to which I afford substantial weight. Furthermore, the proposal would, to a limited extent, conflict with one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. There would also be some harm caused to the character and appearance of the countryside.
37. In addition to the above, I have found that an isolated home would be sited in the countryside and that a case has not reasonable been made to justify that there is an essential need for a full time rural worker to live permanently on the site for three years.
38. I therefore conclude that the substantial weight to be given to Green Belt harm, and the other identified harm, arising from the proposal would not be clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
39. Overall, the proposal would not accord with the Green Belt, rural worker and economic requirements of Spatial Policy 8 of the CS; saved Policy N33 of the Leeds Unitary Development Plan 2006; Chapter 13 of the Framework and paragraph 79 of the Framework. Whilst I do not disagree with the main parties that the proposal would not conflict with any policies in the Clifford Neighbourhood Plan, that is of neutral consequence in the overall planning balance. For the above reasons, I therefore conclude that the appeal should be dismissed.

D Hartley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Adam Burlingham

Kim Eastwood, ELG Planning

FOR THE LOCAL PLANNING AUTHORITY:

Jenna Riley, Principal Planner

Roger Henderson, Agricultural Surveyor

OTHER INTERESTED PARTIES:

None

DOCUMENT(S) SUBMITTED AT THE HEARING

Letter from Costcutter dated 12 July 2019