

Appeal Decision

Hearing Held on 18 November 2020

Site visit made on 19 November 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/P3420/W/20/3246824

**Land Adjacent to The Old Hall Farm, Main Road, Betley, Staffordshire
CW3 9AD**

- 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 and Mrs McDowell against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 19/00491/FUL, dated 22 August 2019, was refused by notice dated 10 September 2019.
 - The development proposed is described as: 'erection of a farm mangers dwelling'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Both parties acknowledge the advice contained in Annex A of Planning Policy Statement 7 (PPS7) and that it carries no status and is therefore afforded no weight. However, it is acknowledged that it has some relevance as a method for assessing essential need.
3. Concerns have been raised by an interested party in his submission¹, over the certificate signed on the application form. This was discussed at the Hearing and the interested party accepted that as the appellant has a 15 year agricultural tenancy, which has in excess of 7 years remaining, they are for the purposes of Section 65(8) of the Town and Country Planning Act 1990, 'the Owner'. Thus, the correct Certificate has been completed for the application.

Main Issues

4. The main issues of this appeal are:
 - i. whether the proposed development would be inappropriate development in the Green Belt;
 - ii. the effect of the proposed development on the openness of the Green Belt;
 - iii. 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 the development.

¹ Rex Brockway BSc(hons) MRTPI Chartered Town Planner – June 2020 page 2, point 1.

Reasons

Inappropriate development in the Green Belt

5. Paragraph 145 of the National Planning Policy Framework (the Framework) states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. The appellants have advanced in their submission and at the Hearing that they consider the proposed development to comply with an exception listed at paragraph 145 a) of the Framework, which is buildings for agriculture and forestry.
6. However, dwellings for rural workers in agriculture or forestry are primarily intended for residential use. Consequently, they are not buildings for agriculture or forestry (even though they are intended to support such a use). Unless a proposed rural worker's dwelling specifically falls within one of the exceptions in paragraphs 145 or 146 it would be inappropriate development. In this instance, the proposed development does not comply with any of the exceptions listed.
7. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will only exist where other considerations outweigh the substantial weight to be given to Green Belt harm. As such, in accordance with relevant policies and the Framework, I must assess whether the Green Belt harm identified, by reason of inappropriateness, and any other harm resulting from the proposed development would be clearly outweighed by other considerations.

Green Belt openness

8. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a proposal on Green Belt openness. It states that openness is capable of both spatial and visual aspects.
9. Details in the appellants submission indicate that the proposed development would involve the construction of a 3no. double bedroom house and the proposed access would utilise the existing arrangements to connect to the road. The dwelling would be located on part of an orchard, which currently has little in the way of built development. In proximity of the site is a public right of way (PROW). Additionally, the submitted drawings indicate that a parking area would be provided with at least 3no. spaces.
10. The site is partially screened from the access track by a mature hedgerow. However, the proposed dwelling would be clearly visible from the track when approaching the site from the main access and from the PROW that has a stile joining the track. From the PROW, the proposed development would be read against the surrounding woodland, although from certain aspects, some relief would be received from the hedgerow. Nonetheless, a residential development on the site would be visually intrusive.
11. The site is notably open in its rural location, comprising part of a larger open field, which makes a positive contribution to the overall openness of the Green Belt. The field that it would be located within makes a positive contribution to the openness of the area. In this instance, I find that the overall impact from

the proposed development on openness, both visually and spatially, would be apparent and substantial.

12. For all of the above reasons, I conclude that the proposed development would have a substantive detrimental effect on the openness of the Green Belt. As such, it would be contrary to the requirements of the Framework.

Other Considerations

13. Policy S3 of the Council's Local Plan 2011, adopted on October 2003 (LP) makes provision for residential development in the Green Belt where there is a proven need for a new dwelling to be provided for the efficient operation of agriculture or forestry in the locality. Whilst not consistent with the Framework in terms of the exceptions to inappropriate development, LP Policy S3 anticipates the likelihood of proposals for such dwellings coming forward. In that context, I afford LP Policy S3 some weight insofar as it identifies circumstances in which such development might be considered acceptable, and criteria for considering such proposals.
14. The enterprise has been established since 2012 and amounts to some 85ha, which was clarified by the appellants at the Hearing. Currently the calf rearing and finishing cattle operation amounts to some 90 head, and cropping on the enterprise is mainly grass. Prior to the appellants, the land was farmed by Mr Burgess. However, due to the implementation of a succession plan for the business this was formally handed over in 2018 through the appellants taking on a Farm Business Tenancy (FBT) for a period of 15 years. A copy of the FBT was provided at the Hearing and whilst an interested party raised concerns with the document, I have little reason to doubt the credibility of the FBT.
15. As part of the succession plan for the business it is obvious that the appellants have clear plans to develop the enterprise, growing a sustainable and profitable farm business. I am informed that it is the intention of the appellants to increase the stock levels of the business, rising to 100 suckler cows and calves, plus a further 200 purchased calves reared to finished beef. As part of this proposed expansion of the business, the appellants have secured planning permission recently for 2no. agricultural sheds², where the calf shed adjoining an existing shed has been constructed and put to use, albeit without a concrete floor.
16. The appellants currently reside in Balterley, after moving from Madeley around the time that they entered the FBT, as it is closer to the site. It was agreed during the Hearing by all parties that the activities undertaken at the enterprise do not currently justify a rural worker to reside permanently on, or near to the farmstead. The appellants submission is clear that it would be essential for a rural worker to reside on, or near to the site to enable the suckler herd to be established. The Council acknowledge in its Officer Report that in the interests of animal welfare a that a key worker should live closer to the livestock, but there is keyworker residence available within sight or sound of the existing agricultural land. This is disputed by the appellants.
17. It has been brought to my attention that 2no. properties are associated with the farmland subject of the FBT, but are not included within it. Well Cottage is situated towards the bottom of the farm access and faces Main Road and

² 18/00927/FUL and 18/00929/FUL

Meadow Cottage is located to the south of the farmstead, located off Common Lane. I was able to view both of these properties at my visit, and in the case of Meadow Cottage, I was accompanied by all parties. It is common ground between the main parties that Well Cottage is not available. Whilst an interested party disputes the availability of Well Cottage, on the details before me and in the absence of any substantive evidence to the contrary, I have little reason to disagree with the main parties on this issue.

18. Turning to Meadow Cottage, this property is a matter of dispute between the main parties, as the Council considers the property suitable to serve the farmstead, especially as it is in the ownership of the landowner and is let on a short-term tenancy. Whilst these matters are not disputed by the appellants, they have discounted this house due to the distance from the farmstead, either by road or through taking a more direct route across the fields. Thus, the appellants consider that there would not be the ability to be within site and sound of the farmstead. This view was supported by the appellants Veterinary Surgeon.
19. During the site visit, the appellants took the route that they would take towards Meadow Cottage, which started at the farm gates close to the entrance of the farmstead. Whilst the route to Meadow Cottage was relatively direct, slight deviations were necessary due to the topography of the fields. As we were approaching the stile for the PROW, it became apparent that the route from the farmstead starts to align with a small section of the PROW, in the vicinity of Meadow Cottage. I viewed the farmstead alongside Meadow Cottage and from Common Lane. Whilst I appreciate that other routes across the appellants land may be possible, I consider that I was able to accurately assess the location of the farmstead in relation to Meadow Cottage.
20. On the basis of the evidence before me and the findings from my visit, I consider that Meadow Cottage is not within sight and sound of the farmstead. This is due to the overall distance between the farm buildings and Meadow Cottage and the orientation of the farm buildings on the farmstead, which face away from Meadow Cottage. Additionally, I do not consider that Meadow Cottage could be made suitable to provide the necessary supervision through a combination of technology and motorised vehicles. I appreciate that a variety of automated monitoring systems which provide alerts are available to the appellants. However, I accept the appellants contention that they are not substitutes for the eyes and ears of a suitably trained and experienced rural worker.
21. In supporting sustainable development, the Framework seeks to avoid new isolated homes in the countryside other than in particular circumstances. These are set out in paragraph 79 of the Framework and include reference to situations where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The main parties agree that Paragraph 79 is relevant in the context of this appeal. The appellants have drawn my attention to a Judgment³, which I have had regard as a material consideration. Whilst this surrounded paragraph 55 of the original inception of the National Planning Policy Framework (2012), I accept it has relevance in light of Paragraph 79 of the Framework, which does not have an explicit financial test to pass in assessing essential needs.

³ Embleton Parish Council & Anor, R (on the application of) Gaston

22. Nonetheless, in advance of the Hearing financial accounts⁴ have been provided by the appellant that demonstrate that the existing business is profitable, albeit modest, with no borrowed money or debt. This supports the findings contained within the Business Plan⁵ and the Agricultural Business Appraisal⁶. I find the Business Plan to have a reasonable prospect of being achieved, despite views to the contrary from an interested party's representative⁷, and I accept that this would depend on the appellants living on the site. Overall, the evidence is sufficient to persuade me that nothing short of a dwelling within sight and sound of the farmstead would guarantee the welfare of the stock proposed within this particular enterprise. Whilst acknowledging the comments and opinions received from an interested party, I find that provision of a rural workers dwelling, such as in the location proposed, would be necessary in this instance, to farm in a responsible manner, given the scale of the proposed increase to the agricultural enterprise and its eventual operational needs.
23. The appellants currently live in a house and have a young family, which they would like to grow and do not consider that temporary accommodation is suitable for their needs. The appellants clearly work hard and dedicate many hours to the business. I also recognise the recent and planned investment for the enterprise. It is understandable that they would prefer to move into a permanent dwelling with their family due to the potential effect on family life. I am also mindful of the health issues of Mr Burgess that has brought forward the requirement of the succession plan, which I am sympathetic towards. However, the personal life of the appellant has little bearing on my consideration of the essential needs of the business. Despite the appellant's views to the contrary and considering the asserted cost implications raised at the Hearing, little evidence has been submitted which adequately demonstrates that suitable temporary accommodation is not available to purchase or rent.
24. The appellants have suggested that permission could be granted subject to a condition preventing commencement of the dwelling until the other permitted buildings had been erected and made available for their intended use. However, in the absence of the animals, the existing agricultural use, and thus the justification for a dwelling on the site, would not exist even were the buildings to be completed. In this instance, I do not consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.

Other Matters

25. There is agreement between the main appeal parties that the development is not considered to result in any harm to the significance of the nearby heritage assets. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special regard to the desirability of preserving or enhancing the listed buildings⁸ or their setting or any features of special architectural or historic interest which they possess. I agree with the Council's observations and find that the proposed development would conserve

⁴ JT Burgess x 2 (Year ended 5 April 2019 and 5 April 2020) and Old Hall Prime Beef x 2 (Year ended 5 April 2019 and 5 April 2020).

⁵ Business Plan – Business Forecast & Response to Queries Raised – Dated March 2019 by Kite Consulting

⁶ Agricultural Business Plan, by Graham Watkins & Co

⁷ David Hughes Agricultural Consultancy Ltd – June 2020

⁸ Betley Old Hall – Grade II*; Model farm complex south west of Betley Old Hall – Grade II*; Dovecote and cartshed, approximately 70 metres west of Betley Old Hall – Grade II and the Smithy, approximately 100 metres west of Betley Old Hall – Grade II.

the heritage assets in a manner appropriate to their significance in line with the Framework.

26. An interested party has raised ecological and biodiversity issues associated with the site. However, I note that the Council do not raise any issues in this respect. Therefore, in the absence of any substantive evidence to the contrary, I have little reason to disagree with the Council on this matter.
27. I have also had regard to the letter of support from the former Chairman of the Next Generation Policy Forum of the National Farmers Union, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.

Green Belt Balance

28. The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. Accordingly, there is conflict with local and national planning policy.
29. From the evidence presented to me, both written and orally, there is a compelling case that the proposed dwelling would improve the appellant's work/life balance and the security of the site. Additionally, I accept that the principle of a dwelling on the site, would be acceptable, given that no other available dwellings are within sight and sound of the farmstead. However, whilst accepting that the enterprise is not new and is part of a succession process⁹, I am not satisfied that it has been demonstrated that there is an essential need for a rural worker to live permanently on the site. Even if I considered, the criteria in Paragraph 79 of the Framework to not be relevant in this case, this would not represent a material consideration that would outweigh LP Policy S3.
30. Having carefully considered the benefits of the proposal and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the proposed permanent dwelling in the Green Belt do not exist in this case. Therefore, the proposed development fails to comply with the Green Belt aims of LP Policy S3 and the Framework.

Conclusion

31. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

⁹ 010 Reference ID: 67-010-20190722

Appearances

FOR THE APPELLANT:

Mr G Willard MRTPI (Agent) – Willardwillard Ltd

Mrs S McDowell (Appellant)

Mr I McDowell (Appellant)

Mr J Burgess (Mrs McDowell's father)

Mr A Baker – Kite Consulting

Mr D Oulton – Veterinary Surgeon

FOR THE COUNCIL:

Mr N Bromley (Senior Planning Officer) – Newcastle-under-Lyme Borough Council

INTERESTED PARTY:

Mr L Bennion

APPEAL HEARING DOCUMENTS

FROM THE APPELLANT:

1. Documents relating to the FBT.