



Appeal Decision

Site visit made on 30 November 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/M2270/C/20/3248393

Land at Park Farm, Goudhurst Road, Cranbrook, Kent TN17 2LJ

- 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 Mel Streek (Tiger Properties (Kent) Ltd), against an enforcement notice issued by Tunbridge Wells Borough Council.
 - The enforcement notice, numbered TO13935, was issued on 30 January 2020.
 - The breach of planning control as alleged in the notice is the material change of use of Land from agricultural to a mixed use of agricultural and the stationing of mobile homes for residential use.
 - The requirements of the notice are:
 1. Cease the residential use of the Land.
 2. Permanently remove from the Land the mobile homes shown in their approximate positions as A, B and C on the attached plan.
 3. Permanently remove all domestic paraphernalia associated with the residential use from the land.
 - The period for compliance with the requirements is 6 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. The enforcement notice relates to the material change of use of the land from agricultural to a mixed use for agriculture and the siting of mobile homes for residential use. Thus, the notice targets an unrestricted residential use rather than one specifically for agricultural or seasonal workers.
3. However, since the notice was issued, a planning application was conditionally approved (20/00500/FULL) on 16 June 2020. This application was for the permanent siting of one caravan for use as an agricultural workers unit, and the overwintering storage of two seasonal workers caravans. It is pertinent to note that in summary, Condition 2 restricts occupancy to a person solely or mainly employed in agriculture, (or their dependents). Condition 4 allows two of the caravans to be occupied for no longer than 8 months in any calendar year.

4. The appellant's Statement of Case predates this permission and submits two scenarios for consideration. The first is for the permanent siting of up to three caravans for use as agricultural worker dwellings; and the second for the permanent siting of one caravan and the over wintering storage of the remaining caravans.
5. S180(1) of the Town and Country Planning Act 1990 Act (as amended) provides that where, after the service of a notice, planning permission is subsequently granted for the same development, or for some part of it, the permission overrides the notice to the extent that its requirements are inconsistent with the planning permission, but the notice does not cease to have effect altogether. Accordingly, as this second scenario has now been effectively granted planning permission, I shall consider this appeal in the context of the allegation as set out in the notice, and then in the context of the appellant's Scenario 1.

Main Issue

6. I have considered the reasons why the Council issued the notice and the main issue is the location of the development.

Reasons

7. The three mobile homes are located within the built complex of Park Farm to the north of Goundhurst Road (A262). From the evidence, the village of Sissinghurst lies some 1.2 km to the east with Cranbrook some 1.7 to the south. The site lies outside the of the Limits to Built Development (LBD) as set out in the Council's development plan.
8. The mobile homes are sited in a small enclosure within the main yard and are surrounded by agricultural style buildings in a variety of uses. A modest area of hard surfacing lies to the north, with fruit orchards and open countryside beyond. Access to the mobile homes is through the main access and yard from Goudhurst Road.
9. From the evidence, the appellant's business operates over this and a number of other holdings. Park Farm amounts to some 90 acres. Of this some 55 to 60 acres are planted with fruit trees. How the remainder of the site and the other farms are used, however, is less clear.
10. Core Policy 1 of the Tunbridge Wells Borough Local Development Framework, Core Strategy, Development Plan Document (2010) (CS), sets out the Council's development strategy. This policy generally resists development outside the built up area boundaries, unless meeting an identified need that cannot be met on a suitable site within the LBD. The National Planning Policy Framework (the Framework) discourages residential development within the countryside in unsustainable locations.
11. Policy H9 of the Tunbridge Wells Borough Local Plan (2006) (LP), in summary, limits development outside the LBD unless it would be essential for a full time worker to reside on the site to provide essential or emergency on site care for human life or for agricultural or business or forestry purposes, which could not be carried out satisfactorily by a person living off site.

12. The case for the appellant is that although the business comprises a number of farms in the locality, Park Farm is the largest and the location of their head office. The business across the various sites, is fruit growing with some storage of fruit after picking and before packing. The three mobile homes would provide accommodation for four people who would then be available in an emergency. Such an emergency might include lighting anti frost candles, managing and monitoring equipment and cold stores for the business.
13. The convenience for having staff on site at all times is recognised. It is also noted that the appellant asserts that there have been seasonal workers living on site historically. It is not in dispute that a continued residential use has not been established and there is no appeal on ground (d).
14. The planning permission that has been granted, provides accommodation for at least one permanent worker to reside on site, with the remaining two mobile homes providing further accommodation for additional workers for eight unspecified months of the year. This allows some flexibility for workers to be accommodated on site at times of highest demand.
15. There is little evidence to demonstrate how the workers accommodated at Park Farm, would provide better emergency cover to the various farms, when compared to workers living offsite, but able to travel within the local area. Moreover, there is little evidence that attempts have been made to secure suitable alternative accommodation in the area, or that appropriate accommodation is unavailable.
16. Drawing the above points together, the site falls outside any built up area boundary and as such, is located in the countryside. Any residential development, whether for agricultural workers or otherwise, beyond the boundary established by the local plan, would therefore conflict with the aim of providing homes in accordance with the agreed settlement hierarchy. I am not satisfied that, on the balance of probability, there is a demonstrable and identified need for either unrestricted residential units, or for additional workers, to reside permanently on the site.
17. For the above reasons, and on the evidence I have before me, I find that the development is not in a suitable location for additional housing, given its location outside any established built up boundary. Consequently, it is contrary to Policies CP1, CP6 and CP14 of the CS and Policies LBD1, EN1 and H9 of the LP. These policies in combination seek to ensure that housing development is located within established development boundaries.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Hilary Orr

INSPECTOR