



## Appeal Decision

Hearing held on 17 March 2021

Site visit made on 19 March 2021

**by A M Nilsson BA (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> May 2021**

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**Appeal Ref: APP/Q5300/W/20/3249377**

**Valentes Nursery, Tingey's Top Lane, Enfield, EN2 9BJ**

- 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 Ionut Andrei Puca against the decision of London Borough of Enfield.
  - The application Ref 19/03920/FUL, dated 14 November 2019, was refused by notice dated 7 February 2020.
  - The development proposed is described as caravan on site to provide temporary accommodation for the nursery employees.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the original decision The London Plan 2021 (LP) has been published by the Mayor of London. It comprises the spatial development strategy for London and is now part of the development plan. At the hearing the parties agreed that the Policies of LP that are most relevant to the appeal are Policy G2 – London's Green Belt, Policy D3 - Optimising site capacity through the design-led approach, and Policy D4 – Delivering good design.
3. There are slight variations of the appellant's name on the application form and the appeal form. At the hearing, it was clarified that this is the same person throughout. However, the agent has confirmed the correct name, and this is therefore referenced in the banner heading above.
4. The caravan subject to the appeal is in situ on the site. I am therefore considering the appeal retrospectively.

### Main Issues

5. The appeal site is within the Green Belt, so the main issues are;
  - Whether or not the development is inappropriate development in the Green Belt and its effect on openness and the purposes of the Green Belt;
  - Whether there is an essential need for an agricultural worker to live permanently at the site;
  - The effect of the development on the character and appearance of the countryside; and

- If the development 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**

### *Site and development*

6. The appeal site is a commercial agricultural nursery. It primarily comprises a large greenhouse for growing vegetables but also includes various other outbuildings, including the caravan subject to the appeal. The site is located at the end of Tingey's Top Lane which is predominantly an unmade road leading from Theobalds Park Road. There are various residential and commercial uses surrounding the site that are contained in a variety of buildings and structures. The caravan subject to the appeal is sited in the south-east corner of the site.
7. The development is described as a caravan. At the hearing however, the parties agreed that due to its permanence it constituted a building. I observed on site that the structure was built into the ground and was clearly not intended to be a moveable structure. I therefore have no reason to form a different view.

### *Whether the development is inappropriate development*

8. The National Planning Policy Framework 2019 (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a limited number of exceptions as set out in paragraphs 145 and 146. One of the exceptions referred to at paragraph 145a) is buildings for agriculture and forestry.
9. At the hearing, both the appellant and the Council took the view that the development accords with this exception and is therefore not inappropriate development. However, while the dwelling may be being used in connection with an agricultural use on the wider site, the appeal building in itself is to be primarily used for residential occupation and use. Consequently, it is not a building for agriculture and does not, therefore, accord with the exception under Paragraph 145 of the Framework and is inappropriate development in the Green Belt. To this extent, the development also fails to accord with policy CP33 of the Enfield Core Strategy 2010 (CS) and policy G2 of the LP which collectively require that the Green Belt is protected from inappropriate development. It is of note that the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. I deal with this matter later on in the decision.

### *Openness and purposes of the Green Belt*

10. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect. The development is sited between the large greenhouse and a boundary fence of around 2m in height. The evidence is that the land was previously devoid of any structures or other development and on this basis the caravan has a greater impact on the openness of the Green Belt in spatial terms. I find that in this

instance, given the size and siting of the development the harm to the openness of the Green Belt, from a spatial perspective, is relatively minor.

11. Despite being partially screened by the greenhouse and the boundary fence, the caravan is clearly visible from the lane. Due to its greater prominence by reason of its size and scale, the development has a moderate impact on the openness of the Green Belt in visual terms. The harm to the openness of the Green Belt from a visual aspect, is moderate.
12. I therefore consider that in combination of both spatial and visual terms the development causes moderate harm to the openness of the Green Belt. Furthermore, and recognising that the caravan is quite well related to existing development on the site, it has nonetheless been erected on the edge of the site and in doing so has led to some minimal encroachment into the countryside. Therefore, and to a limited extent, the appeal development also fails to assist in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt.

*Whether essential need*

13. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I consider that whether there is essential need for an agricultural worker to live permanently at the site to be one of those other possible considerations.
14. Policy DMD 86 of Enfield's Development Management Document 2014(EDMD) sets out the criteria in which new dwellings for agricultural workers will be permitted. These are a) The Council is satisfied that the associated agricultural unit is economically viable and has sound long-term prospects; b) It can be demonstrated that the dwelling is essential to sustain the viability of the farming enterprise; c) There is no suitable alternative accommodation in the locality; and d) No existing dwelling serving the holding has been sold, leased or disposed of in any other way. All criteria are required to be met.
15. On the matter requiring that the associated agricultural unit is economically viable and has sound long-term prospects, the appellant submitted financial accounts for the business for the year ended 31 January 2019. Although the accounts show that the business runs at a small profit (£151 in 2019) an examination of the figures, including wages and salaries of £2000 and directors' salaries of £4500, leads me to conclude that the business has not been operating on a reasonably economically viable basis and nor does the evidence indicate that it has sound long-term future prospects. Indeed, in respect of the latter consideration, I have not been provided with a business plan or any other objective evidence to persuade me of any medium to long term plans to grow the business in such a way that it can deliver a suitable level of profit. I therefore find that the appeal development does not accord with criterion a) of policy DMD 86.
16. In terms of it being necessary to demonstrate that the dwelling is essential to sustain the viability of the farming enterprise the appellant has outlined a number of factors which they consider results in the requirement to live at the site. These include that the speciality peppers which are grown at the site, require greater supervision than other salad/vegetable crops, with regular

monitoring being required of levels of water, feed, and CO2. It is also claimed that a full-time residential presence on the site is necessary to re-fill and monitor paraffin burners to ensure that crops are not damaged by cold temperatures or malfunctioning heaters.

17. Other reasons which have been given for the requirement to live on site are that during the picking season, work begins at 2am to ensure delivery to customers at 9am, as there is no refrigeration on site, and that the caravan meets the requirement to provide welfare facilities on site. It has also been outlined by the appellant that having a resident on site provides 24-hour security for the premises.
18. It has been outlined that prior to growing peppers at the site, it was previously used to grow a wide range of agricultural products without the need for residential accommodation on the site. Limited information, lacking any specialist knowledge, was put forward to clearly explain why the peppers which are now grown, require someone to live at the site, when previously there was no such need. It was outlined during the hearing that some monitoring levels, when reaching a certain level, trigger an alarm. I am not persuaded that technological solutions do not exist that would ameliorate this existing situation to negate the need for continual monitoring as outlined by way of an automated system. Similarly, I am not persuaded that an improved heating arrangement that would remove the need to regularly refill and monitor paraffin burners does not exist. It was suggested at the hearing that such measures are likely to be cost-prohibitive. However, no evidence of the costs that would be involved or the availability of investment opportunities were put forward.
19. The fact that crops are picked from 2am during the picking season does not lead me to the conclusion that this requires a full-time residence on the site. I accept that welfare facilities are needed on the site, of which I observed some in an existing building on the site. It has been suggested that the Council had expressed a view that they did not support the existing packing shed being used in this way. However, no evidence of that was submitted with the appeal or at the hearing for me to give it significant weight. Either way, the development before me is not for the provision of welfare facilities, but for a dwelling.
20. On the matter of security, the provision of a dwelling on the site is not the only means of making the site secure. There is no reasonable evidence before me to indicate that the appellant has explored the potential to use other security measures such as the use of CCTV. Furthermore, I have in any event not been provided with any evidence of any previous security breaches. Taking this into account, coupled with a combination of workers being present for some periods and surveillance from existing residential properties close to the site, I do not consider that there is adequate justification for a dwelling to be located on the site for security reasons.
21. The appellant outlines that they have explored the availability of alternative accommodation within the locality but have not been able to find anything affordable within close enough proximity. No evidence has however been submitted in relation to local availability or affordability for me to be certain that there is no suitable alternative accommodation in the locality. I am also mindful that the appellant considers that it is necessary for someone to either

live at the site, or in close proximity to the site, and as such I am not in a position to disregard the possibility that there may be alternative accommodation in the locality.

22. Although the Council have stated that they consider the development to be contrary to the requirement that no existing dwelling serving the holding has been sold, leased or disposed of in any other way, they stated at the hearing that they had no evidence of this. Their supposition was based on assuming that the historic evolution of the site meant at some time it was connected to a larger plot. Although there was no evidence to confirm that this was not the case as suggested, due to any suggested timeframe being 'historic' and the lack of evidence, I do not consider that the development should fail on this criterion.
23. I acknowledge that permanent residential presence at the site provides some benefits to the efficiency of the enterprise by reason of workers being in such close proximity to crops. To my mind, this amounts to a demonstration of convenience rather than a substantiated case of there being an essential need for someone to permanently reside at the site.
24. From the evidence before me, and that given at the hearing, I do not consider it has been successfully demonstrated that the associated agricultural unit is economically viable and has sound long-term prospects; that the dwelling is essential to sustain the viability of the farming enterprise; or that there is an essential need to permanently reside on the site. The development is therefore contrary to Policy DMD 86 of the EDMD.

#### *Character and appearance*

25. The appeal site is located in an area where there is a veritable array of building styles, including some temporary buildings. It is situated within the Crews Hill Defined Area which includes nurseries and garden centres centred around the Crews Hill area.
26. The caravan is sited adjacent to the large existing greenhouse where it is partially screened from the access road by an existing close boarded fence. The notable variation of building styles referred to above is clearly in evidence in the immediate area surrounding the site of the caravan on the opposite side of the access road. It is also sited in an area that has limited public access.
27. I accept that the caravan is not of rural character, but in the context of the different styles of buildings, its close relationship with other development, as well as its relatively concealed nature from public views, I do not consider that it has led to the incremental erosion of the Crews Hill Defined Area or that it has caused any significant harm to the character and appearance of this countryside location.
28. There is some minor conflict with Policy DMD 91 of EDMD which requires, amongst other things, that external materials should be of high quality and local materials should be used to create a distinctive character and identity. However, in this case and owing to the location of the caravan, I do not find that unacceptable harm has been caused to the character and appearance of the area arising out of the appearance and material of the caravan.
29. I conclude that the development complies with the overall design, character and appearance requirements of Policies CP 30 of the CS, DMD 37 of the EDMD

and D3 and D4 of the LP. Collectively, these policies require, amongst other things, that development maintains and improves the quality of the built environment, be appropriate to its surroundings and deliver good design.

### **Planning Balance and Conclusion**

30. As per my reasoning above, I have found that the development constitutes inappropriate development in the Green Belt which is a matter to which I afford substantial weight in the planning balance. In addition, moderate harm has been caused to the openness of the Green Belt and some very limited harm in respect of countryside encroachment. While I do not consider that there has been any significant harm caused to the character and appearance of the area, this is a matter of neutral consequence in the overall planning balance. I accept that there is some convenience associated with living as close as possible to the agricultural enterprise, but in this case, there is not sufficient agricultural justification before me to justify allowing a permanent residential presence on the site. I therefore conclude that the identified harm to the Green Belt by way of inappropriateness, and the other identified harm, is not clearly outweighed by other considerations as to amount to the very special circumstances to justify development.

31. Therefore, I conclude that the appeal should be dismissed.

*A M Nilsson*

INSPECTOR

