



Appeal Decision

Hearing Held on 12 January 2021

Site visit made on 13 January 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2021

Appeal Ref: APP/J3720/W/20/3259605

Ruins, Alcester Road, Beoley

- 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 Thomas Gilbert (Real Christmas Trees) against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/00395/FUL, dated 3 February 2020, was refused by notice dated 12 June 2020.
 - The development proposed is a new dwelling for an agricultural worker.
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Decision

1. The appeal is dismissed.

Application for costs

2. Prior to the Hearing an application for costs was made in writing by Mr Thomas Gilbert (Real Christmas Trees) against Stratford-on-Avon District Council. A written response from the Council to this application was also submitted prior to the Hearing. No further oral submissions or final comments were made by either of the main parties at the Hearing in relation to this application for costs. This application is the subject of a separate Decision.

Procedural Matters

3. The site address on the application form is stated as 'High Park Farm, Alcester Road, Tanworth in Arden, Birmingham, West Midlands B94 5JB'. On the decision notice the site address is stated as being 'Ruins, Alcester Road, Beoley'. From the submitted evidence the latter site address was also used for the previously refused application Ref: 18/01863/FUL and for recent correspondence between Council Officers and the appellant. Consequently, in the interest of clarity, I have used the latter site address in the banner heading above.
4. The agreed Statement of Common Ground (SoCG) contains a revised description of the proposed development that is different from that on the application form. Given the parties' agreement to this revision, I have also used this in the banner heading above.

Preliminary Matters and Main Issues

5. Policy CS.10 of the adopted Stratford-on-Avon Core Strategy (SACS) aims to prevent inappropriate development in the Green Belt. The *National Planning Policy Framework* (the Framework) at paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be

approved except in very special circumstances. Consequently, given that it aims to resist inappropriate development within it, except in cases where very special circumstances are justified in accordance with the provisions of national policy, I consider Policy CS.10 to be broadly consistent with the Framework.

6. The construction of new buildings is regarded as inappropriate in the Green Belt save for several specified exceptions under paragraph 145 of the Framework. The main parties have agreed that the proposal does not fall within any of these exceptions and that as a result the proposal would be inappropriate development within the Green Belt in conflict with the aims of the Framework and Policy CS.10.
7. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in the SACS and the Framework. I concur with that position. In the light of this the main issues are:
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
 - would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

8. The appeal site is situated next to a group of agricultural buildings that are located within an agricultural holding with land used for a combination of growing trees and grazing sheep. One side of the holding bounds the Alcester Road (A435) with the other being bordered by agricultural land. The appeal site is accessed via a long and narrow private track from Penn Lane. This track roughly bisects the wider holding with an existing group of buildings and proposed dwelling site being located at the end furthest from Penn Lane. In addition to the main front gate at the junction with Penn Lane this track also has two further sets of gates at points further within the holding itself which roughly align with the two largest rows of trees traversing the width of the wider land holding. There are also two public footpaths which traverse the width of the holding: one at the end closest to Penn Lane with the other being towards the other end a short distance past the group of buildings.

Effect on Openness and Green Belt Purposes

9. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in Paragraph 133. The proposed dwelling would be located within an open area adjacent to the existing cluster of buildings where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which is presently permanently open. The construction of a dwelling on the appeal site would therefore bring about built development where there is presently none. This would have a discernible adverse visual impact on openness. Consequently, the proposal would not preserve the openness of the Green Belt. This would cause moderate harm to the openness of the Green Belt as a whole.
10. I acknowledge that the proposed dwelling would be located close to the existing cluster of buildings. However, given the clear linkage between the undeveloped appeal site and the more open land beyond it and the cluster of buildings, and the fact that it has the characteristics of more open countryside, I find that the proposal would lead to a demonstrable loss of openness causing significant harm to the Green Belt.

11. Furthermore, in principle the erection of a dwelling on the appeal site would lead to encroachment of development into the countryside, which would fail to serve the related Green Belt purpose and therefore it would clearly conflict with the fundamental aim of national Green Belt policy. Consequently, it would also conflict with the aims of Policy CS.10 in this regard.

Other Considerations

12. The appellant currently runs an agricultural business on the holding which comprises a mixture of Christmas Tree production and sheep farming on approximately 22.46 hectares of land. To date more than approximately 200,000 trees have been planted for a mixture of wholesale and retail selling, with some trees also being produced for associated businesses. For the Christmas period 2020/21 approximately 15,000 trees were sold with regular replanting being required to replace a similar number every year. There is also currently a flock of approximately 150 ewes, with lambs at foot, on the holding.
13. Based on the evidence before me the parties agree that some form of presence is justified on the site with the Council stating that there is only a need for a temporary presence given the seasonal nature of both elements of the business, and the appellant stating that a permanent presence is justified due to the complex and cumulative functional need of the business overall which they state operates all year round.
14. Criterion (i) of Policy AS.10 of the SACS states that a permanent dwelling for occupation by a person engaged in an agricultural operation or other form of use that can only reasonably be carried out in the countryside, would be acceptable in principle subject to a functional need being established.
15. The appellant considers that there is an essential need for a permanent agricultural worker's dwelling for reasons of security, to enable relevant insurance to be procured; shepherding/lambing; on-site collection of Christmas Trees on a 24-hour basis 7 days a week (24/7) from October to December; frost control and spraying of insecticides; deer and rabbit control; and water sensitive seedlings grown in polytunnels.
16. Crime has been an issue for the appellant at the site for a period of time. The evidence states that there have been repeated break-ins which have resulted in insurance companies being reluctant to provide suitable cover for the business. It is also clear that without mains electricity connected to the holding it is difficult to adequately monitor any items or equipment left on site given issues with the unreliability of motion sensors and the distance of the appellant's current residence from the holding.
17. The appellant has provided a letter written by a retired police superintendent which indicates that additional security arrangements such as CCTV, good lighting and an alarm system would potentially improve the security at the site but that this is not currently possible due to the lack of mains electricity at the holding. The letter also states that the alternative of securing the premises with one guard 24/7 would have a prohibitively high annual cost and that if the aforementioned additional arrangements were instead installed in combination with a person living on the holding permanently, the security issue would be significantly improved.
18. The appellant's evidence also shows that there is currently an annual financial drag on the business. The appellant states that this is due to there not being a permanent presence on the site. The evidence also shows that the capital costs of installing mains electricity, water and an on-site sewage treatment plant would be relatively high.

19. Additionally, according to the SoCG, the appellant has to date invested a substantial sum of money in the business. The appellant's evidence also shows that the business will make a considerable annual profit in year 7 and according to the report produced by Kernon consultants dated 1 May 2020, year 7 relates to the year 2020. The evidence also shows that the cumulative profits for the business will increase significantly from year 8 which would relate to the year 2021.
20. However, the appellant has not provided substantive evidence to demonstrate that it would not be financially viable to install mains electricity without the additional cost of building a dwelling given this projected increase in business profitability. Furthermore, apart from the limited use of motion sensors and paid night-time security patrols, there is also a lack of substantive evidence to demonstrate that all alternative enhancements to security and other surveillance and monitoring options have been fully explored.
21. Therefore, I am not satisfied that the appellant has adequately explored alternatives to living on site permanently to secure the business. Consequently, in the absence of clear and substantiated evidence that a wide range of security enhancements have been considered, the issues of security and insurance add limited weight in support of a permanent dwelling on the site.
22. In relation to shepherding/lambing, the lambing season generally occurs from February to April annually. This is clearly a seasonal activity and of itself it does not support a functional need for a permanent dwelling for an agricultural worker and while it may justify a need for a temporary residential presence on the holding during February and March, I am not satisfied that the number of livestock and the limited lambing season justify a permanent dwelling on the site for animal husbandry reasons.
23. The appellant explained he is moving away from the spraying of herbicides for weed control purposes to a combination of this and 'mob grazing' by the sheep on the holding. This requires the sheep to be moved periodically to ensure adequate coverage and grazing of the weeds. However, I see no reason why this could not be done within normal working hours for those tending the livestock. This therefore does not support a functional need for a permanent dwelling for an agricultural worker.
24. Similarly, the appellant has stated that an on-site collection of Christmas Trees 24/7 from October to December clearly justifies a temporary presence on the site during this period as it would help both with the day-to-day operation of the business during this busy period and assist with providing additional security given the number of thefts of cut trees that have occurred in the past at this time of year. I also note that the Council agree that a temporary presence on the site would likely be the best deterrent to this kind of opportunistic theft. However, again, this does not support a functional need for a permanent dwelling for an agricultural worker.
25. I note that the business sells trees to other clients at times of the year outside this busy period running up to the festive season. However, according to the evidence, given the nature of these clients (conference centres, photo-shoots and film sets etc.) the type of trees sold to them would be much larger and also would likely be cut-down on an 'as needed' basis and therefore would be much less likely to be bunched up together and more difficult to steal and transport away.
26. Furthermore, according to the evidence before me, the quantities of trees sold in this manner are lesser than during the run-up to the Christmas period and more sporadic and uncertain in terms of their timing. The appellant confirmed at the

Hearing that between 600 and 1,500 trees were sold outside of the Christmas period, which is significantly less than the estimate of approximately 15,000 trees sold in the run-up to Christmas 2020/21. Consequently, I consider that the level of out-of-season sale of trees is not sufficient to justify a permanent residential presence on the holding.

27. To prevent frost damage, that I understand would severely damage new growth of the tree stock, between late April through to the end of June, the appellant uses a combination of tractor mounted air fans or irrigation. These interventions raise the temperature in and around the plants to above freezing, thus preventing frost damage. The appellant considers that a permanent on-site presence is always required during the frost period to address this threat. I am not satisfied that this can only be addressed by a permanent on-site presence. Accurate weather reports and preventative action may prevent the worst frost damage and it is not clear whether there are alternative management strategies which could address this concern. On the available evidence this does not support a need for a permanent residential presence on the holding.
28. The appellant's statement also indicates that there is a need to spray pesticides on the crop of trees at different times of the year with typical Christmas tree species such as Nordmann Fir and Norway Spruce needing to be sprayed at regular intervals from January to September. Furthermore, this spraying is often focussed into relatively short periods to avoid inclement weather or gusts of wind from either blowing or washing the pesticide chemical away from its intended target. Moreover, the evidence also shows that, given the unpredictability of the frequency, severity, and locality of frosts and also of favourable weather conditions for spraying, that having a person living on the holding would allow them to react quickly to either use a fan to prevent localised frosts or spraying equipment to more quickly apply pesticide to the tree crop.
29. However, according to the evidence before me there are three types of trees grown on the holding comprising saplings, older but not mature trees and mature trees. The saplings are grown in pots in the polytunnels and then transferred to bigger pots outside when they grow larger and more resistant to frost where they grow either to partial maturity, when they are cut for use as domestic Christmas trees, or to full maturity, when they may well be cut down for use as a tree on a film set or at an exhibition centre.
30. Consequently, given that saplings are currently being successfully grown in unheated polytunnels and then replanted elsewhere on the holding the evidence indicates that the tree species being used are hardy ones that are less susceptible to the impact of a severe frost. Therefore, while I also acknowledge that some frost damage has been done to some of the older saplings and trees in pots planted outside the polytunnels, from what I observed on my site visit this would not appear to comprise a significant portion of the overall crop.
31. Moreover, the use of a more sophisticated weather monitoring device than the current one, would likely give a more reliable and timely warning of favourable weather conditions for spraying and for tackling periods of frost using a large portable fan. In any event, there is nothing before me to demonstrate why this spraying and frost control/monitoring could not or does not take place during the normal working day. This also therefore does not support a permanent residential unit on the holding.
32. The watering of the saplings grown in the polytunnels has also been used by the appellant to seek to justify an essential need for the proposal. However, the watering of these saplings is something that could reasonably be done during the

- day by an agricultural worker visiting the holding and consequently this activity does not demonstrate an essential need for someone to be permanently present on the site to ensure that this was done. As a result, this also does not support the need for a permanent dwelling on the site.
33. Turning to the control of deer, rabbits, and other animals on the holding, it is clear that there is an issue with these animals occasionally damaging some of the planted trees with approximately 10,000 trees being damaged before the rabbit fencing was installed. According to the appellant, since this fencing was installed the damage resulting from rabbits has reduced with a small number still occasionally getting through which necessitates a degree of night-time patrolling.
34. In addition, the appellant has stated that to date, no higher fencing to prevent deer accessing the holding has been erected due to the financial cost and that as a result deer still occasionally damage some of the trees by accessing the holding via the A435 road and the vehicular access gate. However, no substantive evidence has been submitted to demonstrate that suitable deer fencing would not achieve a satisfactory protection of the trees or that its installation would be cost prohibitive. Indeed, according to the appellant's statement, the installation of further fencing is planned. As a result, this does not support the need for a permanent dwelling on the site.
35. I acknowledge that a recent road traffic accident involving a vehicle traversing the A435 meant that a large hole was made in the fencing and that as a result, rabbits and deer could more easily enter the holding. However, these types of accidents are likely to be rare occurrences and consequently would not give rise to an essential need for a worker to permanently reside at the site.
36. I also acknowledge the appellant's point that the essential need for an agricultural worker to live on site is a cumulative one and that in their view, when combined the seasonal periods for lambing, frost management and the cutting and selling of trees in the run-up to Christmas amount to a substantial portion of the year. However, even so, this is not the same as there being a substantial need to be on-site all year round. In any event, several elements of these works and activities would, to my mind be capable of taking place during normal working hours particularly with appropriate monitoring of the weather or improvements to the security of the appeal site.
37. As a result, and taking into account the various elements of the appellant's business I find that while there is a desire for the appellant to provide permanent residential accommodation on the appeal site to support their mixed livestock and tree businesses, no essential need for permanent residential accommodation for a rural worker has been demonstrated. As such, when taken in the round, this other consideration does not weigh in favour of the proposal.
38. I note the appellant's point relating to the proposal being integral to the future viability of the business and that the future development of rural businesses is supported by the supporting text of policy AS.10 and paragraphs 80, 83 and 84 of the Framework. As a result, I afford this consideration moderate weight in favour of the proposal.
39. In support the appellant has cited similar proposals that were granted planning permission at appeal stage (Ref: T/APP/Q4625/A/85/030257/P3) and (Ref: T/APP/Q4625/A/90/172069/P3). These decisions turned on the specific circumstances of the cases, one being related to a specialist horticultural business selling show plants in the other case there was a dwelling on the site that was no longer linked to the agricultural business. The current appeal, which I have

determined on its own merits, is clearly distinguishable in its own circumstances from these other cases. As a result, I afford this consideration little weight.

Any Other Harm

40. Both main parties agree that the proposal would be an isolated dwelling in the countryside. At the hearing the appellant submitted an annotated map highlighting the location of local services such as bus stops near to the appeal site for my information. One stop is located approximately 340 metres from the appeal site with a service running every two hours to Redditch with another being located approximately 580 metres from the site with services to Birmingham. No information was provided in relation to the frequency of this service. A third bus stop was indicated which was located approximately 1km from the site with a service to Solihull. Other services indicated on the map were: a golf course further along Penn Lane; a public house and post office; petrol station/shop and restaurant approximately 950 metres from the site; and a pub, railway station and doctors located at Wood End, approximately 2km from the site.
41. Given that all three bus stops closest to the appeal site are on unlit country roads without a footpath with two of them being on the other side of the busy A435 road it would be unlikely that future occupiers of the proposed dwelling would walk to use them particularly during winter months and times of limited daylight. Furthermore, as many of the other services identified on the map are also much further away from the site and similar unlit country roads would likely be used to reach them, they would also be less likely to be accessed via transport modes other than a private car.
42. Paragraph 79 of the Framework states that planning decisions should avoid the development of an isolated home in the countryside unless it meets certain specified exception tests. The Braintree Judgement¹ has held that the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. It has also held that the issue of 'isolated' in this regard must always be a matter of fact and planning judgment. In this case, it is not simply about a consideration of proximity to services and facilities, but also about whether the proposed dwelling would be physically separate or remote from a settlement.
43. According to the evidence there are no other dwellings on the holding and while there are other dwellings along the part of Penn Lane closest to the vehicular access to the holding, these are dispersed and typically separated by notable gaps, such that they could not be regarded as forming a residential hamlet or 'settlement'. In any event, in planning terms, the appeal site is situated outside any settlement boundary defined by the SACS and falls within the open countryside.
44. As a result, even though these services could be reached from the appeal site by private car, in my judgement due to its location the proposed dwelling would as a matter of fact and degree be physically separate and remote from a settlement.
45. Consequently, and being mindful of paragraph 103 of the Framework, I see no reason to disagree with the main parties that the proposed dwelling would be in an isolated rural location. Accordingly, given my findings above that no essential need for a rural worker has been demonstrated, the proposal would also conflict with paragraph 79 a) of the Framework which weighs against the appeal scheme.

¹ Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

Planning Balance and Conclusion

46. Paragraph 144 of the Framework makes it clear that substantial weight should be given to any harm to the Green Belt. It establishes that the very special circumstances needed to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations. The proposed dwelling would be inappropriate development in the Green Belt and cause moderate harm to the openness of the Green Belt. The proposal would therefore cause substantial harm to the Green Belt and other harm due to its isolated location in conflict with the aims of the Framework. These identified harms weigh significantly against the proposed development.
47. In relation to other considerations put forward that weigh in favour of the appeal scheme, I have afforded most of these limited, little or no weight. I have afforded one other consideration moderate weight in favour of the proposal as it would support the development of a rural business. Consequently, the benefits either individually or cumulatively of the proposal do not outweigh the substantial harm to the Green Belt and the other harm which I have identified. The very special circumstances necessary to justify the development do not therefore exist.
48. Accordingly, I conclude that the proposal would conflict with policies CS.10 and AS.10 of the SACS and the development plan when read as a whole and paragraphs 79 a), and 143 of the Framework and that the appeal should therefore be dismissed.

C Coyne

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Nicholas P. Barlow BSc (Hons) FRICS FAAV, Director, Barlow Associates Limited.

Mr Hugh Richards, Barrister, No. 5 Chambers instructed by the Appellant.

Mr Thomas Gilbert. Appellant.

Mr Graham Gilbert. Brother of the Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stuart Flaherty BA (Hons) MSc MRTPI, Planning Officer, Stratford-on-Avon District Council.

Mr Tony Kernon BSc (Hons) MRICS FBIAC, Director, Kernon Countryside Consultants Limited.

DOCUMENT SUBMITTED AT THE HEARING

1. A map with annotations highlighting local services such as bus stops near to the appeal site was submitted by the appellant.