

Appeal Decision

Hearing Held on 28 July 2021

Site visit made on 29 July 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2021

Appeal Ref: APP/P2935/W/21/3266736

Middle Coldcoats Farm, Track from A696T to Middle Coldcoats, Milbourne, NE20 0DG.

- 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 Franklin (HighClaire Equestrian Ltd) against the decision of Northumberland County Council.
 - The application Ref 20/02247/FUL, dated 9 July 2020, was refused by notice dated 12 October 2020.
 - The development proposed is erection of a rural workers dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 20 July 2021, the Government published the revised National Planning Policy Framework (the Framework). Prior to the Hearing both main parties had the opportunity to submit comments on the relevance of the Framework to this case and further comments were sought during the Hearing. I have considered the comments made and I have assessed this appeal in light of the Framework.
3. The Council advises that consultation is being undertaken on the main modifications to the emerging Northumberland Local Plan. Given the stage of the plan and in accordance with the views of parties at the Hearing, I afford its policies limited weight in this appeal.
4. As part of the appeal documentation the appellants submitted two additional reports; a Phase 1 Geo-Environmental Risk Assessment dated December 2020 and an Ecological Impact Assessment dated 7 January 2021 (Ecology report). It is common ground that the documents address pollution and ecology concerns and are sufficient to overcome reason for refusal no 3. I am satisfied that no third parties would be prejudiced by my accepting these documents.
5. At the Hearing I raised concerns that drawing no 3 indicates that the outfall from the package treatment plant would be to a watercourse. This is inconsistent with the advice provided in the Ecology report where discharge from the treatment plant is said to be to a drainage field. The parties agreed that drawing no 3 is inaccurate and that drainage could be controlled through an appropriately worded condition. On this basis I am satisfied that reason for refusal no 3 can be overcome and I have considered the appeal accordingly.

Main Issues

6. Having regard to the above, the main issues are:

- a) whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework and relevant development plan policies;
- b) the effect on openness and the purposes of the Green Belt;
- c) whether or not there is an essential need for a rural worker to live permanently at the site;
- d) if the proposal is inappropriate development, 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 required to justify the proposal.

Reasons

Site and development

7. HighClaire Equestrian is located adjacent to the A696 to the north of Ponteland in open countryside designated as Green Belt. The equestrian complex comprises 8.2 Hectares of land largely laid out as paddocks with a range of timber buildings including 8 stables, 2 foaling boxes, tack room, feed room, a workshop, various shelters, a timber club house /welfare area and an arena.
8. Planning permission was approved for the erection of the stable building and exercise menage in 2015¹. The planning permission was subject to a condition restricting the use of the building to private recreational use. Planning permission for change of use from private stable to commercial breeding stable was subsequently granted in 2019².
9. The proposal is to construct a detached 4 bedroomed single storey dwelling with basement garaging to be occupied by a rural worker. The appeal site is located on the south side of the appellants land holding. It is an open field currently used as a paddock. The boundaries of the paddock area are defined by a mix of hedging and post and rail fencing.

Whether the proposal is inappropriate development

10. 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 149 and 150. Policy C17 of the Castle Morpeth Local Plan 2003 (CMLP) generally reflects this approach, but the Framework post-dates the CMLP and therefore provides the most up to date list of exceptions.
11. Both parties agree that the proposed dwelling would not meet any of the exceptions and would therefore be inappropriate development in the Green Belt. I concur with that position and find that the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹ local authority reference 15/01899/FUL

² local authority reference 19/00956/FUL

Green Belt openness

12. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
13. The proposal would result in the development of a dwelling, associated hardstanding and parking on land which is presently open and free of any built development. The significant footprint of permanent development would result in a spatial loss of openness.
14. The proposed dwelling would largely appear single storey from public vantage points. Even so, it would be set closer to the road than the existing buildings on the equestrian holding and would be prominent from the road frontage. By reason of its scale, size, parking and turning areas and the associated external amenity space, the dwelling would result in an inevitable and demonstrable loss of visual openness. In combination the spatial and visual effect of the development would cause moderate harm to the openness of the Green Belt.
15. Furthermore, the dwelling would be erected on the edge of the equestrian site. It would extend built development into an open area and would encroach into the countryside. Therefore, the appeal development also fails to assist in safeguarding the countryside from encroachment, one of the five purposes of the Green Belt.
16. Overall, in respect of Green Belt it is acknowledged by the parties that the appeal site is inappropriate development in the Green Belt, would reduce openness and would conflict with one of the purposes of Green Belt. For the reasons I have set out I would agree, and I conclude that in relation to Green Belt the development would conflict with the Framework. It would also conflict with Policy C17 of the CMLP.

Essential need

17. The site is located away from any defined settlement. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside, except in a number of circumstances including a) 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.
18. Policy H16 of the CMLP does not permit new houses in the open countryside unless it can be clearly shown that it is essential for a full-time worker to live adjacent to his or her place of work, that the unit is established, and that the accommodation cannot be provided in existing buildings or other dwellings in the area. The Council considers full weight can be given to Policy H16. Whilst the wording of Policy H16 is more prescriptive than paragraph 80 of the Framework, I give significant weight to its central point that rural workers dwellings in the countryside require clear justification.
19. Further, the Planning Practice Guidance sets out considerations that may be relevant when applying paragraph 80 a) of the Framework. This includes evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of a land based rural enterprise, and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.

20. The appellants operate an equestrian business and centre for breeding their own Connemara ponies and rare breed fell ponies. The foals are brought-on at the centre, later broken-in and sold. There is also the breaking in and bringing on of other young horses and ponies and facilities for local shows and riding club activities. Mr and Mrs Franklin currently operate the business from a property in Milbourne, a village some 2.5 miles from the site, which they rent on an assured shorthold tenancy.
21. At the time of the application the business had 16 horses and ponies. At the Hearing I was advised that this number has since risen to 23 horses and ponies and this has increased the standard man days required to operate the business from 2.98 to 5.1. Nevertheless, the appellants pointed out that standard man days equates to a normal working day of between 7 and 8 hours and currently the operation of the business is fulfilled by Mr and Mrs Franklin working long days with no other employees or volunteers helping at the site.
22. I understand that the day-to-day activities on the site include mucking out, feeding, grooming, cleaning, exercising the horses and ponies and checking them through the day and last thing at night. The appellants indicate a pattern of activity starting early and not finishing until late in the evening. Nonetheless, this type of routine activity could likely be carried out without a rural worker residing permanently at the site.
23. However, situations clearly arise which require workers to be present at the site outside normal working hours. These include during foaling and when very young animals need close attention. At the Hearing, Mrs Franklin referred to an instance in 2019 where a foal had nearly been lost and it was imperative to be in attendance when broodmares give birth. I was informed that it is not always possible to determine exactly when broodmares will give birth, and as the entire process can take as little as 30 minutes a quick response is necessary. It was also explained that other animal welfare situations may also require an onsite presence, such as when animals are sick or injured.
24. The appellants consider that the appeal site is in a vulnerable rural location. Although no incidences of theft have been recorded, at the Hearing the appellants referred to security problems whereby people picnic near to the site and feed the horses which can cause specific detrimental health issues. At my site visit I saw that fenced margins around the paddocks keep animals away from the field edges and there are limited opportunities for picnicking adjacent to the site. Whilst I do not underestimate the distress such incidences cause, there is limited evidence before me that this is a frequent occurrence or that other measures such as appropriate signage to deter such activities has been utilised.
25. In my view, it is clear that there are occasions when animals require immediate attention during the night or unexpectedly. There are also occasions when there is a need for a 24-hour presence on the site. Whilst the Council considers this to be a functional need, they argue that the low numbers of stock on the site limits the need. The appellants have CCTV cameras in place, and I saw at my site visit that there is a place with welfare facilities. Overall, I have not been provided with sufficient substantive evidence to show that the need to be on site for certain events equates to a need to be permanently based at the site for the effective operation of the business.

26. In terms of the degree of confidence that the enterprise will remain viable for the foreseeable future, I appreciate that the appellants consider that a judgement on viability is about more than financial viability. Reference is made to the expertise of the appellants and the amount of work that has been undertaken to establish the business. I agree that the long-term survival of the business will be a measure of the success of the business plan but there must also be an ability for the business to make and sustain a profit. This is consistent with Policy H16 of the CMLP which seeks to ensure that a business has been established for at least three years, has been profitable for one of them, is currently financially sound and has a clear prospect of remaining so.
27. The appellants state that the business has been developing since 2015. However, the business plan is dated June 2020 and the commercial use of the site was not granted planning permission until 2019. The business plan indicates that with no further capital investment the business could make £10000 profit a year. A later update to the financial forecasts in the business plan suggest in 2021/2022 and 2022/2023 profits would be considerably more and sufficient to cover an agricultural wage of £22000 per year.
28. While some explanations were given at the Hearing about some of the projected operating costs appearing too low or other expenses not being considered at all, the financial statements submitted are not supported by a great deal of verifiable information. I heard that the price commanded for sale of the livestock has significantly increased but I also heard that Mrs Franklin has been concentrating on the equestrian business rather than horse dentistry and that other elements of the business such as club and training activities have been affected by the covid pandemic. I have profit and loss accounts for 2018 and 2019, both identify that the business made a loss. I have no final accounts for 2020 and the future potential profits for 2021/2022 and 2022/2023 are projections and they are rather limited in scope. As I am not able to clearly establish the incomings and outgoings of the business, I am also unable to confirm that it is currently viable and will remain viable for the foreseeable future.
29. Furthermore, the standard man day calculations suggest that the profits generated by the business would need to be divided among at least 2 full time workers. As I have already discussed I recognise that standard man day estimates are not an exact science and this figure may not be representative of how the business operates in practice. Nevertheless, based on the evidence, the potential profits in the next two financial years would not cover the employment of 2 full time workers. Even if the appellants were to live on considerably less income, it is not clear from the information presented whether the business would have the potential to be viable if it were forced to operate without Mr or Mrs Franklin for a prolonged period of sickness or similar unanticipated event. Based on the planning history of the site and the reports before me, there is limited evidence that the business has been established for at least three years or that it is currently profitable or financially sound.
30. Overall, taking into account both need and viability considerations, it has not been convincingly demonstrated that there is an essential need for a rural worker to live permanently at their place of work. Consequently, the proposal would conflict with Policy H16 of the CMLP, it would also conflict with the Framework.

Other Considerations

31. The parties agree that the design and visual character of the proposed dwelling would be appropriate to the appeal site's countryside location and would not detract from the character and appearance of the area; I see no reason to disagree. However, ensuring that development is compatible with its surroundings is a requirement of the development plan and is a neutral matter.
32. The appellants have brought to my attention an appeal decision where temporary planning permission was allowed for the siting of a chalet to support the establishment of an agricultural unit. However, the appeal proposal before me is for a permanent dwelling and I find that the appeal decision provided has limited relevance to the matters before me.

Green Belt Balance and Conclusion

33. The proposal would be inappropriate development in the Green Belt, would result in moderate harm to its openness and would conflict with one of the Green Belt purposes. These matters attract substantial weight.
34. As an essential need for the proposed dwelling has not been demonstrated, the proposal would result in a dwelling in the countryside without justification. It would therefore conflict with the housing strategy for the area and this is a harm that weighs against the proposal.
35. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. In this case, there are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm. Therefore, the very special circumstances necessary to justify the proposal do not exist.
36. For these reasons, I conclude that the appeal should be dismissed.

Diane Cragg

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Craig Ross	George F White
Adeline Rutherford	George F White
Mr Franklin	Appellant
Mrs Franklin	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ryan Soulsby	Northumberland County Council
Judith Murphy	Northumberland County Council