



Appeal Decision

Hearing held on 26 July 2022

Site visit made on 26 July 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2022

Appeal Ref: APP/P0240/W/21/3287114

Crosswaters Farm House, Icknield Way, Eaton Bray LU6 2EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Thorne against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/00939/OUT, dated 25 February 2021, was refused by notice dated 30 July 2021.
 - The development proposed is a permanent farm manager's dwelling to supervise an arable enterprise.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved. I have therefore had regard to the submitted plan but regarded this as indicative.
3. Since planning permission was refused and the appeal was lodged, Natural England (NE) has issued updated advice in regards to the Chilterns Beechwoods Special Area of Conservation (the SAC). The appeal site is located within the zone of influence of the SAC. The parties have been given the opportunity to comment on these matters. In view of the issues raised, I have dealt with this as a main issue in the appeal.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - whether there is an essential need for a rural workers dwelling in the countryside;
 - the effect of the proposed development on the Chilterns Beechwoods SAC; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by

other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site is a 0.1 hectare parcel of land located close to an existing dwelling and agricultural buildings associated with Crosswaters Farm. The site lies within the South Bedfordshire Green Belt and within the Chilterns Area of Outstanding Natural Beauty (AONB). The proposal is for the construction of a detached dwelling, the details of which would be determined as part of a reserved matters application.

Whether inappropriate development in the Green Belt.

6. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. The appellant has argued that since the proposed dwelling would be tied to the agricultural enterprise it would fall under exception a) which allows buildings for agriculture or forestry.
7. Policy SP4 of the Central Bedfordshire Local Plan 2021 (the Local Plan) sets out a general presumption against inappropriate development which will be assessed in accordance with the Framework. It is therefore consistent with the Framework.
8. Whilst it is proposed that the dwelling be occupied by someone connected with agriculture, its primary function is as a dwelling and not for agricultural purposes. Even with a condition restricting occupancy to a person working within agriculture, the primary use would nevertheless be a domestic residence. It would therefore not meet the exception.
9. For this reason, I conclude that the proposal would be inappropriate development in the Green Belt which is, by definition harmful to the Green Belt.

Openness of the Green Belt

10. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development. An assessment of openness requires a consideration of its locational context and both its spatial and visual implications.
11. Since the application has been made in outline with all matters reserved there are no details of the design of the proposed dwelling. However, the appellant has indicated that it is likely that the dwelling will contain up to three bedrooms and facilities for the business such as a farm office or meeting space, boot room and wash space.
12. The appeal site forms part of an area of open field positioned to the rear of two substantial agricultural buildings and close to the existing house. The surrounding agricultural landscape is undeveloped and open. Icknield Way lies the north-west.

13. Whilst details of the design of the building have not been submitted at this stage, the proposed house would result in a building where there is currently open land. This would be physically large in all three dimensions. As such, the spatial openness of the Green Belt would be harmed by the proposal.
14. Due to the undulating topography of the landscape which is elevated from the road and the limited boundary vegetation, existing development around the site is visually prominent from Icknield Way. Whilst the layout of the proposed development would be determined at a later stage, any development on this site would be similarly visible from the road and within the wider landscape in which it lies. Thus, harm to the visual openness of the site would arise.
15. Consequently, the openness of the Green Belt would be reduced, both visually and spatially. In the context of the open landscape but in close proximity to existing development, I conclude that the development would result in moderate harm to the openness of the Green Belt conflicting with the Framework's aims in that regard.

Essential need

16. In addition to its Green Belt location, the appeal site lies in the open countryside where there is a presumption against new residential development. Policy DC3 of the Local Plan sets out that permanent new dwellings for the use of rural workers will be supported in the countryside subject to a number of criteria relating to functional need, financial viability, availability of alternative accommodation and scale.
17. Paragraph 80 of the Framework sets out that the development of isolated homes in the countryside should be avoided unless certain circumstances apply. One of those is that a) 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. The Planning Practice Guidance (PPG)¹ sets out considerations that may be relevant when applying paragraph 80a of the Framework. This could include evidence of necessity where agricultural processes require on-site attention 24-hours a day and where there would be a risk to human health or from crime, or to deal quickly with emergencies that could cause serious loss of crops. Additionally, it could include considerations as to whether the enterprise will remain viable for the foreseeable future; whether provision of an additional dwelling on site is essential for the continued viability of the farming business through the farm succession process; and whether the need could be met through improvements to existing accommodation on the site. Those criteria set out within Policy DC3 are broadly consistent with the PPG.
19. There is an existing house on the site. Outline planning permission was granted² for this in 1991 with the reserved matters approved³ in 1994. An agricultural occupancy condition was attached to the outline permission. This is the permission to which the subsequent reserved matters approval relates and therefore the dwelling on the site is restricted in terms of occupancy.

¹ Paragraph: 010 Reference ID: 67-010-20190722

² Council Ref: SB/91/00631/FULL

³ Council Ref: SB/94/00594/RM

20. This house is currently occupied by the appellant who is retiring from the farming business. He intends to continue residing in the existing house. However, as succession planning, he is passing on the management of the business to his son for whom he is now seeking permission for a separate dwelling.
21. The Council disputes that an essential need in terms of Policy DC3 and the Framework has been demonstrated. I turn now to look at each of the criteria set out within the policy.

Functional Need

22. The first requirement under Policy DC3 is that there is a clearly established, existing functional need for agricultural, forestry and other full-time workers to live permanently at or near their place of work in the countryside.
23. The farming enterprise is some 200 hectares. As explained to me at the Hearing, the majority of the land is given over to crops which varies year on year due to crop rotation. Associated with this, there are various tasks to be undertaken on a regular basis, including crop spraying when weather conditions are favourable, dealing with collection and deliveries, managing grain drying, day-to-day management of the farm and casual labour, general monitoring and maintenance as well as providing security.
24. I have not been provided with precise figures of the labour requirements. It was suggested to me that it was not possible to be precise on this matter given the variation in crops. However, at the Hearing, there was general agreement that at least one full-time worker would be needed for a farm of this size. Given the scale of the operation and the variety of activities associated with it, this does not appear unreasonable.
25. The farm is formed of three different blocks, with one of these areas described as being three-quarters of a mile away. The main agricultural buildings are co-located with the existing house, the grain store is some distance away, accessed from Dagnall Road to the east. The farm operations are therefore somewhat dispersed. Whilst the labour requirement is generally agreed, the need to reside on site is a point of dispute between the parties, particularly given that there is already a dwelling at the farm.
26. There is a large amount of work involved in managing the farm and it would certainly be more convenient for the farm manager to live on the site particularly during busy periods when the working day is much longer or additional labour is on site and needing to be managed.
27. I appreciate that crop spraying is reliant on the right weather conditions and that it is easier for someone living on the site to be able to get onto the fields quicker to carry this out. However, to my mind, there would not be a significant difference in time taken to get underway with this task between someone living on site and someone living a few minutes' drive away. Therefore, whilst more convenient, this does not justify living on the site.
28. It was put to me that it is necessary to be on hand to deal with emergencies, including monitoring the grain store in case of breakdown. There is nothing to suggest that this monitoring could not be done as part of the daily tasks of the farm manager when on site. Moreover, the grain store is already some distance

from the existing dwelling and not currently being monitored through proximity to the dwelling.

29. Being present for deliveries and collections would also be part of the farm manager's role. However, it seems to me that these would be scheduled, typically including a time window for delivery or an advanced notification. This does not therefore justify living at the site.
30. There are concerns about security, however, I observed that access to the farm is gated and both agricultural buildings can be closed and secured. Furthermore, whilst no longer intended to be occupied by someone directly involved in the farm, the presence of the existing dwelling would provide passive surveillance and act as a natural deterrent to criminal activity.
31. I recognise that the many and varied tasks associated with managing the farm would be easier to undertake for someone based at the farm. However, they do not, in themselves, indicate to me that a 24-hour presence on site is essential.
32. I appreciate that when consent was granted for the existing house in 1991 an essential need would presumably have been identified. However, I do not have information about the nature of the farming enterprise at that time. Nonetheless, if this dwelling did not exist, I may have been persuaded that given the large and wide-ranging number of tasks associated with the farming enterprise in combination with security concerns, a permanent dwelling could have been justified. However, as I have found the presence of the existing house would act as a deterrent to potential criminals, I do not consider a second dwelling is justified on the basis of a functional need.

Viability of the farming enterprise

33. Under criterion 2 of Policy DC3, it has to be demonstrated that the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one year, are currently financially sound and have a clear prospect of remaining so.
34. The evidence indicates that the farm has been established for some time, with the existing house for the farm manager being provided on the site nearly three decades ago. The appellant has submitted accounts which demonstrate that the farm was profitable. Moreover, there is evidence of ongoing investment in the farm including a recent permission⁴ for a new agricultural building. On this basis, I am satisfied that the farming enterprise is financially viable and likely to remain so.
35. The appellant has argued that the farming enterprise would become unviable without someone residing there. As I have set out above, I have no reason to find that it would be essential for the farm manager to reside at the site on a permanent basis. In the absence of firm evidence as to how viability of the farm would be affected, I cannot conclude that it is essential for the continued viability of the farm that someone physically reside on the site.

Alternative accommodation

36. The third requirement is that the need for a rural workers dwelling could not be fulfilled by another existing dwelling on the unit, or any other existing

⁴ Council Ref: CB/20/02121/FULL

accommodation in the area which is suitable and available or could be made suitable and available for occupation through conversion and change of use.

37. The existing farmhouse would not be available as the appellant intends to continue to reside there in his retirement. There is nothing to require that he should vacate this property or indeed, extend or sub-divide to create a second dwelling. To require this would be unreasonable.
38. The existing house incorporates the farm manager's office. This would be relocated to the proposed farm manager's dwelling. The need for an on-site office would be beneficial, with all paperwork easily accessible. However, it would not be essential for this to form part of the dwelling on the site. With other existing buildings on the farm, it may be possible to utilise part of these for this purpose.
39. The appellant owns another farmstead, Valence End Farm. This comprises a generously sized two-storey dwelling and a number of traditional farm buildings and barns set around a yard. This adjoins the fields belonging to the farming enterprise. This house is currently rented out and the farmstead, due to its traditional appearance, is intended to be used as a film and television set. This would provide a diversified income stream for the farm.
40. It was explained at the Hearing that this house was inherited by the appellant and has never formed part of the farm. As it is owned in a private capacity by the appellant rather than as part of the farming enterprise, it would not be available to the appellant's son as a residence for the farm manager.
41. The submitted accounts indicate that there are houses at both Valence End Farm and Crosswaters Farmhouse which form part of the fixed assets associated with the farming enterprise. Furthermore, the appellant confirmed that the rental income included within the accounts was from the rental of that farmhouse. In addition, the traditional farmstead was being used to diversify the farm operations. For all these reasons, I find that the farmstead at Valence End Farm forms part of the farming enterprise. There is therefore an alternative dwelling on the farm that could be made available for occupation by the farm manager.
42. Even if this property were to be unavailable, the appellant has submitted very limited evidence of having searched for alternative accommodation in the area. Submissions indicate that a search was undertaken within 3 miles of the farm, with the cheapest 3 bedroom dwelling being £285,000. However, I have been provided with very limited details as to whether a property at this price would be unaffordable or unsuitable for the proposed occupant.
43. The appellant has estimated a build cost of around £150,000-£200,000 for a dwelling on the site although limited information has been submitted to support this estimate. Whilst I appreciate that build costs may be lower than purchasing an existing property, I have insufficient evidence to reach a firm conclusion on this matter.

Scale

44. The final criterion is concerned with the scale of the proposed dwelling and that it is no larger than that required to meet the requirements of the enterprise.

45. The appeal proposal is made in outline and therefore matters in relation to scale and appearance are not set at this stage. Should planning permission be granted, these would be considered as part of a reserved matters application.

Overall findings on need

46. The farming enterprise is an established and viable business with a good prospect of continuing to be so. Whilst being able to live on the site would be more convenient for the farm manager, it has not been demonstrated that there is an essential need for a presence on site 24-hours a day to deal with agricultural processes associated with this business. Had there been no existing dwelling on site, I may have been persuaded that a permanent dwelling for the farm manager on site could be justified. This would be on the basis of the cumulative activities associated with the farming enterprise in combination with ensuring the ongoing security of the farm.
47. Furthermore, there are already two dwellings associated with the farming enterprise, one which is rented out and the other which will continue to be occupied by the appellant during his retirement. With limited evidence of alternative accommodation having been fully explored, including the use of the farmhouse at Valence End Farm, I am not satisfied that the additional dwelling is justified in this countryside location.
48. An essential need for a rural workers dwelling in the countryside has not been justified. The proposal would therefore conflict with Policy DC3 of the Local Plan and the Framework as referred to above. It would also conflict with Policy HQ1 of the Local Plan which requires, amongst other things, high quality development that is well connected to surrounding areas, that encourages travel by sustainable modes.

Chilterns Beechwoods SAC

49. The appeal site is within the zone of influence of the SAC. NE has recently advised that emerging evidence has identified that the integrity of the SAC, particularly at Ashridge Commons and Woods Site of Special Scientific Interest (SSSI), is being harmed as a result of public access and disturbance, attributed to residential development.
50. NE have advised that any development that proposes an increase in the total number of residential dwellings on a site within a zone of influence of 12.6km from Ashridge Commons and Woods SSSI, will be required to undertake a project level Habitats Regulations Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). This should detail how it will avoid adverse impacts to the Chilterns Beechwoods SAC. Affected proposals will be expected to consider impacts both alone and in combination with other plans and projects and set out measures to sufficiently mitigate these.
51. At the Hearing, the Council confirmed that it does not yet have a strategy for mitigation. In the absence of this, it has advised that schemes which increase residential development within the zone of influence will not be permitted until such time as a mitigation strategy is in place. The appellant acknowledged this point and, in the absence of details of the required mitigation, has not proposed any.

52. Regulation 63 of the Habitats Regulations prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal. Had I been minded to allow the appeal, I would have had to make an appropriate assessment of the implications of the plan or project for the protected sites, both together and in combination. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.

Other considerations

53. The appeal site is located within the AONB. Given the location of the proposed dwelling as part of a cluster of buildings within the countryside, subject to an appropriate design, the additional dwelling in this context would not harm the landscape or scenic beauty of the AONB. This is a neutral factor in the balance.
54. Subject to a satisfactory visibility splay being provided at the site entrance, which could be secured by a suitably worded condition, the proposal would not harm highway safety. This is also a neutral factor. In order to provide this, there would be a loss of hedgerow to the site which would cause some localised environmental harm which would also weigh against the proposal.
55. The proposed development would be sufficiently set away from neighbouring occupiers so as to not adversely affect their living conditions. This is a neutral factor.
56. The proposal would generate employment during its construction. This would be a modest benefit of the scheme. I have no substantive evidence that it would enable the business to grow over and above what is there already, therefore I cannot attribute other economic benefits to the proposal.
57. The proposed dwelling would be in the open countryside, away from existing settlements, services and facilities. Future occupants would be reliant on private vehicles to access their day-to-day needs. This weighs against the proposal.

The Green Belt Balance

58. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause moderate harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.
59. The proposed development would be within the open countryside where there is a presumption against new residential development. Future occupants would be reliant on private vehicles in order to access services and facilities. This would only be in relation to a single household and the degree of harm arising from this would be modest. In addition, the scheme would cause other environmental harm to the locality. I attribute modest weight to these environmental harms.
60. In addition to these findings, an essential need for the farm manager to reside at the site has not been demonstrated to justify an additional dwelling on the site.

61. The scheme would deliver modest economic benefits arising from its construction. It would also deliver the private benefit of the convenience of living on the farm for the appellant's son.
62. These minor benefits would have very little weight and would not outweigh the substantial harm to the Green Belt and other harms I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
63. As such the proposed development would be contrary to the Framework which sets out that the Green Belt should be protected against inappropriate development. It would also conflict with Policies SP4 of the Local Plan as referred to above.

Conclusion

64. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Clive Thorne	Appellant
Peter Thorne	Appellant's son
Henry Doble	Agent, Acorus Rural Property Services

FOR THE LOCAL PLANNING AUTHORITY:

Peter Vosper	Principal Planning Officer
Andrew Coombe	Agricultural Adviser, Sanham Agricultural Planning

HEARING DOCUMENTS

HD1 Copy of Conditions or Reasons for Planning Application – SB/91/00631/FULL
HD2 Copy of Conditions or Reasons for Planning Application – SB/94/00594/RM