



Appeal Decision

Hearing Held on 7 February 2023

Site visit made on 7 February 2023

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2023

Appeal Ref: APP/K0425/W/22/3295063

Mudd Banks Stud Farm, City Road, Stokenchurch, HP14 3EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Jill Clark against Buckinghamshire Council.
 - The application Ref 21/07348/FUL, is dated 2 August 2021.
 - The development proposed is rural worker's dwelling for a temporary period of 3 years.
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Decision

1. The appeal is dismissed and planning permission refused.

Application for costs

2. Before the Hearing an application for costs was made by Mrs Jill Clark against Buckinghamshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. There is a slight difference between the description of development given on the application form and that given in the Statement of Common Ground (SoCG). In this decision I have had regard to the description given in the SoCG as this more accurately describes the proposal as a mobile home.

Main Issues

4. The main issues in this appeal 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 policies of the development plan;
 - whether there are any other considerations that could amount to very special circumstances which mean the proposal should be approved, including whether there is an essential need for a rural worker to live full time on the site having regard to the Framework and the policies of the development plan;
 - the effect of the proposal on the landscape and scenic quality of the Chilterns Area of Outstanding Natural Beauty (AONB).

Reasons

Inappropriate development in the Green Belt

5. The site of the proposed mobile home forms part of an existing equestrian facility which is comprised of stables, storage/workshop and feedstore buildings. The mobile home is already located on the site albeit not in its final location. The area occupied by the buildings and hardstanding is part of a larger land holding that extends to around 6.7ha. The areas outside the hardstanding have the appearance of paddocks and at the time of my visit accommodated a pony and horses. As well as the hardstanding and paddocks there is an area of unused land to the west which has planning permission for the construction of a menage.
6. To the north, west and east the site is surrounded by other fields. To the south lies the City Road with further open land beyond. The small settlement of Waterend is to the east, whilst the larger settlements of Stokenchurch and Radnage are nearby. The site is physically separate from these settlements.
7. The site lies in the Green Belt, the Chilterns AONB and is not located within a settlement. In these terms and in accordance with the main issues as set out above I will determine whether the development is inappropriate development in the Green Belt and whether it complies with the policies of the development plan, before moving on to whether any other considerations might amount to very special circumstances necessary to justify the proposal.
8. The Framework identifies in paragraphs 145 to 151 the types of development that might be appropriate in the Green Belt. The exceptions to inappropriate development set out in these paragraphs do not include new homes, including temporary dwellings. Therefore the appeal proposal would represent inappropriate development in the Green Belt. The Framework states that inappropriate development in the Green Belt is by definition harmful and expects substantial weight to be given to any harm to the Green Belt.
9. In addition an essential characteristic of Green Belts is their openness and permanence. The proposed siting of the mobile home would be on the hardstanding adjacent to the existing buildings which would mean that it would be perceived as being part of an existing collection of buildings. Whilst this would limit its effect on the openness of the Green Belt, it would still be visible from the public footpath which runs along the northern boundary of the holding. In visual terms therefore it would have the appearance of further consolidating development in this area. Consequently it would have a limited impact on the openness of the Green Belt in this location.
10. The development plan for the area is comprised of the Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development, July 2013 (SAP) and the Wycombe District Local Plan, Adopted July 2019 (LP). The principal policies that are relevant to this appeal are DM27 Housing for Rural Workers, DM42 Managing Development in the Green Belt, CP8 Protecting the Green Belt and CP3 Settlement Strategy all contained in the LP.
11. The site lies in the countryside outside the boundaries of any settlement. The boundary of the site is not contiguous with other dwellings and it is therefore physically separate from a settlement. Policies CP8 sets out to protect the Green Belt from inappropriate development and Policy CP3 precludes

development outside certain areas, and that includes the area where the appeal site is located. The proposal would therefore not comply with these policies without specific justification.

12. However DM27 sets out an approach for considering applications for accommodation in the countryside, for a worker supporting a rural enterprise in locations where it would not otherwise be granted. Therefore the compliance of the proposal with the development plan will turn on whether the proposal complies with DM27.
13. Policy DM27 is a criteria based policy. However the criteria set out in the Policy are divided into 3 sections. Of relevance to this decision are sections 1 and 2. Section 1 sets out the requirements a proposal for permanent accommodation for a rural worker must meet in order to comply with the policy. Section 2 deals with proposals for new rural enterprises and states that in these cases only temporary accommodation in the form of a caravan or mobile home will be permitted. It is the appellant's view that as the appeal proposal is only for a mobile home, i.e. temporary accommodation, there was no need to supply evidence to demonstrate compliance with the criteria set out in Section 1 of the Policy.
14. There was extensive discussion on this matter at the hearing, including analysis of the supporting text of the Policy. Paragraph 6.78 of the supporting text outlines that the core principle (in order for a rural workers dwelling to be acceptable in terms of the Policy) is that there must be an objective assessment of need to justify an exception to the normal restrictions on the location of new housing. There is no qualification in this paragraph of the supporting text to say that this only applies to new permanent dwellings associated with established rural enterprises.
15. Moreover paragraph 6.79 refers to the Council scrutinising all applications for new occupational dwellings against the criteria in the policy. Whilst there is a list of criteria under Section 1 of the Policy there are other criteria within the Policy. It is my view that paragraph 6.79 refers to the whole of the Policy and not just the criteria listed under Section 1.
16. Furthermore paragraph 80 of the Framework refers to, amongst other things, planning policies and decisions avoiding the development of isolated homes in the countryside unless certain circumstances apply. These criteria include whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. In this context I have taken 'permanent' to mean someone who would be present on the site 24 hours a day, 7 days a week and 365 days a year. It would be difficult to assess whether there was an essential need for a rural worker to live permanently at or near their place of work in the countryside without applying similar criteria to those outlined in Section 1 of DM27.
17. I therefore take the view that the criteria set out in Section 1 of the Policy should apply to all new dwellings for rural workers, and this should include proposals for mobile homes associated with new enterprises. I therefore find that the appeal proposal would conflict with the Policies CP3, CP8 and DM24 of the development plan, unless it complies with the criteria set out in Policy DM27.

Other considerations/Very special circumstances

18. As a result of the appellant's view that the criteria set out in Section 1 of Policy DM27 should not apply to the proposal, limited information was supplied on the essential need for the dwelling and around the financial viability/sustainability of the proposal. The majority of the evidence around this matter was supplied in an email dated 6 October 2021 from the agent to an officer of the Council.
19. It was established that most of the activities set out in the email could be carried out by a worker who would be present on the site during the normal working day, with early evening visits if that were deemed necessary. The activities which would need to be attended to outside the normal working day related primarily to emergencies or dealing with their consequences.
20. Whilst I accept that emergencies such as dealing with colic or horses lying on their sides could occur at the site at any time, it appears to me that they would be relatively rare events and unanticipated events rarer still. Moreover emergencies by their very nature are things that occur very infrequently. Where an occasional overnight stay is required to deal with a sick animal this is capable of being accommodated within the existing buildings. I saw on my site visit that there are catering and sleeping facilities contained in one of the barns. Moreover there was no substantial evidence provided to demonstrate that the site would accommodate animals, that due to their age and/or the activities they were engaged in would make them more susceptible to illness or injury.
21. Reference in the email was made to the Animal Welfare Act 2006 and the need for a full time presence on the site in order to comply with its provisions relating to animal welfare. The sections of the Act quoted in the email do not clearly demonstrate that there is a requirement in cases such as this for a full time presence on the site in order to comply with its provisions. Therefore and in terms of the evidence which has been provided it has not been demonstrated that a full time presence is required on the site in order to comply with the provisions of the Act.
22. I note that the email provides evidence of the labour requirement for the enterprise and whilst I accept that there is a labour requirement for the enterprise, it has not been clearly demonstrated that there would need to be a permanent presence at the site.
23. In terms of the enterprises ability to become sustainable within a 3 year period. I could see that the enterprise could generate an income. However, it was not clear how much of that income would be absorbed covering the costs of running the enterprise, such as employing staff in accordance with the labour requirements. This lack of clarity results from the unstructured nature of how the evidence was presented and the lack of a business plan to demonstrate how the enterprise would achieve financial viability within 3 years.
24. Moreover another potentially income generating project, the menage, which has the benefit of planning permission has yet to be constructed. This might change the financial sustainability of the enterprise in the future, but I have had to have regard to the current facilities available to the enterprise in this decision.

25. The appellant to a large extent relied on their interpretation of Policy DM27 given above to support their case. In other words for new rural enterprises there is no need to demonstrate compliance with the criteria at Section 1 of Policy DM27 if they were applying for temporary accommodation in the form of a mobile home. Therefore the evidence supplied to demonstrate the existence of other considerations that could amount to very special circumstances, as set out above, sufficient to outweigh the harm to the Green Belt, is unstructured and lacking sufficient and/or specific detail to be convincing. I therefore give this essential need as demonstrated by the evidence limited weight in this decision.
26. I therefore find that the other considerations provided by the appellant in support of the proposal do not amount to very special circumstances that clearly outweigh the harm to the Green Belt, to which I give substantial weight, and the conflict with the policies of the development plan that I have identified.

Chilterns AONB

27. The Framework at paragraph 76 requires that great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs, it goes on to state that these areas have the highest status of protection in relation to these issues. It is common ground between the parties that the appeal proposal does not give rise to harm to the AONB. Having visited the site and viewed the site of the proposed mobile home in the landscape and given its proximity to other buildings which would form its backdrop, I do not consider that the proposal would harm the landscape and scenic beauty of the AONB in this location.

Conclusions

28. Therefore and for the reasons given above I find that the appeal should be dismissed.

P M Sturgess

INSPECTOR

APPEARANCES

For the Council

Jenny Ion BA(Hons) MA MRTPI

Principal Development Management Officer

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For the Appellant

Tom McArdle BSc(Hons) MRICS

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Mrs Jill Clark

Appellant