



Appeal Decision

Hearing held on 22 February 2023

Site visit made on 22 February 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 02 March 2023

Appeal Ref: APP/G1630/W/22/3305692

Church Farm, Church Lane, Norton, Gloucester, Gloucestershire GL2 9LS

- 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 Barry Clifford of Country Kennels and Cattery against the decision of Tewkesbury Borough Council.
 - The application Ref 22/00276/FUL, dated 6 March 2022, was refused by notice dated 5 August 2022.
 - The development proposed is retrospective planning permission for the siting of two mobile homes for workers of Kennels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development is retrospective in nature, as the two mobile homes are already in situ and occupied. References to the development therefore relate to development already carried out.
3. The Council's decision notice refers to Policy SP10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (JCS). During the Hearing, it was confirmed that this was a referencing error, and the decision should have referred to Policy SD10 of the JCS. The correct policy has been referenced in this decision.
4. The Council accepts there is an essential functional need for one mobile home. Much of the discussion surrounding the main issues therefore concerns the planning merits of the retention of a second mobile home for workers of the kennels and cattery. It is worth noting that the appellant is not prepared to consider a scheme for a single mobile home, and in turn, a split decision would not be appropriate.
5. The appellant says that one of the mobile homes has been in situ for a period in excess of 10 years, and therefore contends it may have become lawful through the effluxion of time. Nonetheless, no Lawful Development Certificate has been approved in respect of either of the mobile homes, and the lawfulness or otherwise does not form part of the consideration of an appeal of this type. In turn, this factor is limited in its relevance to the planning merits of the development.

Main Issues

6. The main issues are:

- whether the location of the development is acceptable with regard to development plan policy and functional need;
- whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2021) (Framework) and other relevant development plan policies, including the effect of the development on openness;
- the effect of the development on the landscape character of the area; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Location

7. The appeal site is located outside of the village of Norton, and is deemed to be within the open countryside. At a local level, Policy H1 of the Down Hatherley, Norton and Trigworth Neighbourhood Development Plan 2011 – 2031 (Neighbourhood Plan) says that new housing development should be located within the village settlement boundary. Outside of the settlement boundary, new housing will only be allowed as an exception if it conforms to other policies in the JCS or the Tewkesbury Borough Plan 2011 – 2031 (Local Plan).
8. Policy SP2 of the JCS sets out the overarching distribution strategy for new development within the JCS area. It says proposals for residential development in rural areas which fall outside of defined settlements, will be dealt with in accordance with Policy SD10 of the JCS. Paragraph 4 of Policy SD10 goes on to prescribe circumstances where residential development in such areas may be permitted. These include circumstances where “there are other specific exceptions/circumstances defined in district or neighbourhood” [plans]. Of most relevance to the appeal scheme is Policy AGR3 of the Local Plan, which concerns proposals for agricultural and other rural worker dwellings.
9. Subject to certain criteria, Policy AGR3 says proposals for new dwellings for persons employed full time in agriculture, forestry, horticulture or other businesses where a rural location is essential, may be permitted. To meet the requirements of this Policy, there must be “an essential functional need for a new dwelling on the site based on evidenced needs of that business”. Notwithstanding the other policy criteria, the acceptability of the appeal scheme with regard to Policy AGR3 therefore partly hinges on whether there is a demonstrated essential need for two mobile homes in connection with the kennels business.
10. The kennels is licensed to keep and board 63 animals, and comprises 14 cat pens and 49 dog pens. The business currently employs three key workers, one of whom lives in the main farmhouse which forms part of Church Farm. The other two key workers currently reside in the two mobile homes which are the subject of this appeal. Whilst other workers are employed at the kennels during the day, only the key workers are trained and qualified to meet all the

necessary welfare requirements of the animals, as prescribed by the Animal Welfare Licensing Regulations¹.

11. The appellant contends that at least two key workers are needed on site at all times, to ensure round the clock care for the animals is maintained. This means there can always be at least one key worker on site to meet the animals' welfare needs, even in an emergency. This could include a situation where a key worker is needed to take an animal offsite to the veterinary hospital, which could be out of hours. However, even if I were to accept that two workers must live on site to meet the requisite welfare needs of the animals, this would not translate to an essential need for both mobile homes, given that one key worker already resides in the main farmhouse.
12. I acknowledge that having three key workers living on site does assist with facilitating days off, holidays and other time off for these workers, thereby ensuring two key workers are on site at all times. Whilst this arrangement will invariably help contribute to the convenience and efficacy of the business, I am not persuaded that it is an essential component of the business' ongoing viability, as cover from an offsite worker could be arranged in such periods of absence. Indeed, the non-key workers for the kennels do live offsite, which is indicative of the potential feasibility of such an arrangement. In turn, it has not been demonstrated that it is essential for three key workers to live permanently onsite to maintain the appellant's five star licence, nor to meet the business' responsibilities with regard staff levels, animal inspections and emergency provision, as prescribed by the Animal Welfare Regulations.
13. This conclusion reflects the findings of the Council's Rural Appraisal², which says "In accordance with planning policy and guidance, there is no established essential need for the retention of two mobile homes. However, there is considered an essential need for the retention of one mobile home". Whilst I acknowledge the Rural Appraisal was commissioned in connection with an earlier application, it remains relevant, as the appeal application is essentially a resubmission of this earlier application.
14. On this basis, I consider that an essential need for the siting of two mobile homes within the appeal site has not been demonstrated. The development therefore conflicts with the criteria for new rural worker dwellings set out in Policy AGR3 of the Local Plan. In turn, the development also conflicts with the overarching strategy for new homes in the Council's area, as set out in Policies SP2 and SD10 of the JCS, and Policy H1 of the Neighbourhood Plan.

Inappropriate Development

15. The appeal site is located within the Green Belt. The Framework is explicit that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
16. Paragraphs 149 and 150 of the Framework set out a number of exceptions where development in the Green Belt may not be considered inappropriate. During the Hearing, the parties agreed that none of the exceptions under paragraph 149, which concern the construction of new buildings, would be

¹ The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

² Fox Rural, Planning & Land Management, Rural Planning Appraisal, 8 April 2021

applicable to the appeal scheme. Whilst there is an exception for a material change of use under paragraph 150(e), this is only applicable where the development preserves openness and does not conflict with the purposes of the Green Belt.

17. The development comprises two mobile homes, each with its own garden and perimeter fence. Whilst the mobile homes are situated close to other buildings comprised in the main farmstead, they do extend southwards of the farm's main built footprint. Spatially, the development therefore results in some loss of openness to the Green Belt. Although the mobile homes are not readily visible from the roads to the north or west of the farm, they can be seen from a public footpath which runs to the east of the site. Indeed, on my site visit the mobile homes were clearly visible along sections of the path running alongside the farm's eastern boundary. Whilst they are viewed against the backdrop of other buildings comprised in the farm, their encroachment beyond the farm's main built footprint is noticeable. This means the scheme also results in some loss of visual openness.
18. Given that the appeal scheme results in some loss of spatial and visual openness, the scheme would not fall within the exception under paragraph 150(e) of the Framework. When assessed against the provisions of the Framework, the proposal is therefore inappropriate development in the Green Belt. Similarly, the development would be deemed inappropriate when assessed against Policy SD5 of the JCS and Policy GRB4 of the Local Plan, both of which are consistent with the provisions of the Framework in terms of approach to development within the Green Belt.

Landscape Character

19. The area surrounding the appeal site largely comprises open countryside, and is distinctly rural in character. As mentioned, the mobile homes extend beyond the main built footprint of the farm, thereby encroaching into the open countryside. This encroachment introduces a degree of urbanisation to the surrounding landscape, which undermines its rural credentials. Whilst the mobile homes are modest in size, this impact is exacerbated by the domestic paraphernalia found within the enclosed gardens to each of the two mobile homes.
20. On this basis, I consider that the development does harm the landscape character of the area, albeit to a limited degree. Nonetheless, it therefore conflicts with Policy SD6 of the JCS and Policy LAN2 of the Local Plan, both of which seek to preserve the intrinsic beauty of area's rural landscape.
21. During the Hearing, it was accepted by the Council that the appeal site is not located within a Landscape Protection Zone, and therefore Policy E1 of the Neighbourhood Plan is not relevant to the development.

Other Considerations

22. As mentioned, the two mobile homes help with the smooth running of the kennels. In particular, the accommodation helps facilitate time off for the workers and helps ensure animal welfare standards are properly maintained at all times, even in an emergency situation. Whilst I have concluded that the mobile homes are not an essential component to the overarching business

function of the kennels, these factors are nonetheless benefits of the scheme, which do weigh in its favour.

Other Matters

23. Much support for the development has been voiced as part of this appeal, including from Norton Parish Council. Whilst I acknowledge the importance of the kennels to the local community, and the high regard that is held for the appellant and their business, it has not been demonstrated that two mobile homes are essential to ensure the continuation of the business.
24. Although the Neighbourhood Plan highlights the importance of mobile homes as a more affordable component of the Council's housing stock, this factor does not negate the requirement for such homes to comply with other relevant policies of the development plan. Whilst there may also be examples of static caravans elsewhere in the Council's area which are in the Green Belt, I have no specific details of these, and so cannot properly draw any comparisons with the current scheme.
25. Whilst I note that Council Tax has been paid in respect of the mobile homes, this factor does not outweigh the harm arising from the development in this instance.
26. Irrespective of the Council's stance with regard to the siting of a single mobile home, the appeal application relates to the siting of two mobile homes, and so the corresponding impact is materially different.
27. The appeal site is located near to the Church of St Mary, which is a listed building. In line my statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of this building. Nonetheless, given that the development is not readily visible from the church nor its immediate surrounds, I am satisfied that the development would preserve the church's setting.
28. Irrespective of whether the Council's housing policies are considered out-of-date, the tilted balance under paragraph 11(d) of the Framework does not apply in this instance, as the Framework's Green Belt provisions provide a clear reason for refusal, owing to the inappropriateness of the development.

Planning Balance

29. As per the Framework, the development would constitute inappropriate development within the Green Belt. By definition, it is therefore harmful, and substantial weight must be attributed to this harm. Some limited harm also arises from the loss of openness to the Green Belt, and the resultant impact on the surrounding landscape character.
30. Set against this harm, the development provides benefits to the kennels, particularly in terms of convenience and business efficacy. Nonetheless, given that an essential need for the two mobile homes has not been demonstrated, these benefits are not sufficient to outweigh the harm identified. Consequently, I find that the other considerations in this case do not clearly outweigh the harm by reason of inappropriateness, or the other harms to openness and landscape character. In turn, the very special circumstances necessary to justify the development do not exist in this instance.

Conclusion

31. The development conflicts with the development plan as a whole and there are no other considerations, including the provisions of the Framework, that outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR

Appearances

FOR THE APPELLANT

Damon Andrews (Agent)

Barry Clifford (Appellant)

Sarah Clifford

Richard Page (Norton Parish Council)

Cllr Mark Williams (Ward Member)

FOR THE COUNCIL

Sarah Barnes

Bob Ristic MRTPI