



Appeal Decision

Hearing Held on 17 January 2023

Site visit made on 17 January 2023

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 May 2023

Appeal Ref: APP/P1940/W/22/3291601

Meadow Farm, Hyde Lane, Nash Mills HP3 8SA

- 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 Steve Smith against the decision of Three Rivers District Council.
 - The application Ref 21/0925/FUL, dated 9 April 2021, was refused by notice dated 28 July 2021.
 - The development proposed is demolition of buildings 8 & 9 and erection of rural worker's dwelling for groom's accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An additional plan (drawing P/011 Rev A) has been submitted as part of the appeal, setting out the extent of the curtilage of the proposed new dwelling. The main parties agree that this provides necessary clarity. The plan does not materially change the proposal to such an extent that it would prejudice the interests of interested parties. I therefore determine the appeal on this basis.
3. A planning obligation in the form of a dated and signed Section 106 unilateral undertaking was submitted during the Hearing.

Main Issues

4. The appeal site is located within the Green Belt and the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including any effect on its openness;
 - Whether the development would make satisfactory provision for affordable housing in accordance with development plan policy; and
 - If the proposal is inappropriate development in the Green Belt, 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 necessary to justify the development.

Reasons

Whether inappropriate development

5. The site consists of 5.9 hectares of land in equestrian use, which was granted planning permission in 2020. It contains an existing dwelling occupied by the appellants. The removal of the agricultural occupancy condition from this property was also permitted in 2020. The site also contains a range of other buildings and structures including barns, storage sheds, stables, hardstanding and a manege which are located centrally within the site. The rest of the site consists of undeveloped open fields.
6. The National Planning Policy Framework (the Framework) indicates that, apart from the exceptions listed in paragraphs 149 and 150, the construction of new buildings within the Green Belt should be regarded as inappropriate. Both main parties consider the exception set out in paragraph 149 g) is relevant to this appeal as the site includes previously developed land. The Framework defines previously developed land as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole curtilage should be developed) and any associated fixed surface infrastructure.'
7. The proposed dwelling would be located on the eastern edge of the developed part of the site. It would replace an unused static caravan which sits on existing hardstanding. It would also extend beyond the hardstanding into open undeveloped land. The hardstanding is clearly a fixed surface and is associated with the other built structures within the site. As such, in accordance with the definition in the Framework, I agree that this area constitutes previously developed land.
8. As the development would also extend beyond the hardstanding into open undeveloped land, I must determine whether this falls within the curtilage of the previously developed part of the site. Having considered the evidence and taken account of my observations on the site visit, I am of the view that this area of open land directly adjacent to the developed land does fall within its curtilage. This therefore accords with the previously developed land definition.
9. The exception under paragraph 149 g) is therefore relevant in this case as this refers specifically to 'the partial or complete redevelopment of previously developed land'. However, this is subject to the proposal 'not having a greater impact on the openness of the Green Belt than the existing development,' which I now consider.
10. The extent to which a proposal may cause harm to openness, might depend on a range of factors such as the scale of the development, its locational context, and its spatial and/or visual implications.
11. The existing static caravan structure is small in size and scale and does not have the permanency and significance associated with a building. Whilst the proposed dwelling would be single storey it would nevertheless be significantly larger than the caravan in terms of its height and overall scale and would introduce a permanent building onto the site that does not currently exist. Moreover, the proposal would extend built form into currently open land. This would be further exacerbated by the proposed fenced garden and associated

- domestic paraphernalia, which whilst modest in size, would nevertheless extend development further into currently open land.
12. The proposed scheme includes the demolition of buildings 8 and 9 'to mitigate for the proposed groom's accommodation'. As these buildings are larger in both volume and footprint than the proposed bungalow, their demolition would inevitably result in a reduced footprint and volume of built form on site. I note that the Council does not dispute this.
 13. However, buildings 8 and 9 are located in the centre of the yard surrounded by other structures and buildings, rather than on the edge. In this context they are not unduly prominent. Whilst their removal would provide extra hardstanding space within the enclosed yard, it would not compensate for the erection of a permanent dwelling in an area of the site currently devoid of a building and which would prominently and permanently extend built form into the Green Belt. Whilst the site is screened by established trees and hedging along the site boundary with Hyde Lane, there are still some views into the site, albeit limited, from the two access points and some glimpses through the vegetation.
 14. The fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. Taking account of the above I am of the view that the proposal would have a greater impact on the openness of the Green Belt than the existing development.
 15. Also, for the reasons set out later in my decision, the development would not meet an identified affordable housing need within the area of the local planning authority. Accordingly, the proposal does not fall under the exception set out at paragraph 149 g) and I conclude that the proposal would be inappropriate development in the Green Belt. The Framework states that this is, by definition, harmful to the Green Belt, carries substantial weight and should not be approved except in very special circumstances.
 16. The development would also not comply with Policy CP11 of the Three Rivers District Council Core Strategy 2011 (CS) and Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document 2013 (DM), which both seek to protect the Green Belt from inappropriate development and preserve openness. It would also not accord with CS Policy CP1 which, as an overarching policy on sustainable development, includes seeking to protect natural, built, and historic environments from inappropriate development.
 17. Whilst CS Policy CP12 (Design of Development) and Policy DM7 (Landscape Character) have been cited in the reasons for refusal concerning Green Belt land, I do not consider they are directly related to this specific issue and therefore do not conclude against them.

Affordable housing provision

18. CS Policy CP4 requires, amongst other things, that 'all new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing'. Whilst the policy expects, in most cases, that affordable housing is delivered on site, for small sites of between one and nine dwellings the use of commuted payments towards provision off site, can

be considered as an alternative. The Affordable Housing Supplementary Planning Document 2011 (SPD) provides further clarification on the circumstances when this may be relevant, such as where there may be difficulties over the delivery or ongoing management of small numbers of affordable units within a small development.

19. The appellants state that as the development would meet the definition of affordable housing and deliver on-site provision secured through a planning obligation, a commuted sum would not be required. The Council disagrees with this approach and instead seeks a financial contribution for off-site provision in accordance with policy requirements.
20. Notwithstanding CS Policy CP4, the Framework indicates that the provision of affordable housing should not be sought for residential developments of less than 10 dwellings, other than in designated rural areas which does not apply in this case. There was therefore some disagreement at the Hearing as to whether the Council's policy approach on affordable housing provision was fully compliant with national policy. I consider this matter first.
21. The Council's evidence sets out a robust assessment of the identified need for affordable housing, the reasons for a lower threshold than that required by national policy, and why small sites are so important in contributing to the provision of such housing in the district. Accordingly, I attach substantial weight to this evidence and consider that affordable housing provision is required in this case. I now consider whether the proposed dwelling would constitute affordable housing and accord with CS Policy CP4.
22. The appellants have submitted an updated Affordable Housing Statement which confirms that the dwelling would be managed as a Build to Rent property by the landowner, where the rent would be capped at the lower of either 80% of market rent or the Local Housing Allowance rent for the locality. This would be delivered through the submitted planning obligation, which also includes provisions to secure the rural worker's dwelling for future occupants.
23. The dwelling would provide accommodation to allow the existing employee and his family to live on site. This employee currently lives around 3.5 miles away within a neighbouring authority. The Council contends that evidence does not demonstrate that the employee's housing needs are not met by the market. Whilst I note the appellants' concerns that it is becoming increasingly difficult for rural workers to purchase or rent property in the market, only limited evidence on this has been provided. It has also not been suggested that the employee is in need of affordable housing.
24. In accordance with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
25. The appellants state that 'As the dwelling would be linked to the equestrian holding for exclusive use for an employee of the holding, the rent would be subject to a contract of employment.' Indeed, I acknowledge that this approach would generally be the norm for a rural worker's dwelling, and rents would naturally reflect the reduction in value arising from occupancy restrictions and

be part of a negotiated employment contract. On this basis the decision as to whether any rent would be payable and at what level, would be determined through means other than the clauses relating to rent levels set out within the planning obligation. Accordingly, these clauses do not satisfy the necessity test in this regard. No other mechanisms have been included to secure affordable housing by other means, such as a commuted sum, and there is no evidence to suggest that such provision would be unviable. Consequently, the planning obligation does not meet the necessity test in this context.

26. There was disagreement between the parties as to whether a single rural dwelling could constitute Build to Rent affordable housing (defined as Affordable Private Rent in the Framework). Whilst I acknowledge that the Framework's definition of affordable housing does not set a threshold for Build to Rent schemes and that such properties do not need to be owned and managed by a registered provider, the Planning Practice Guidance (PPG) infers such provision would be on larger sites and be based on identified needs.
27. I accept that the Council has not yet assessed any Build to Rent needs (market or affordable) within the district, nor updated their policies to include it. Even so, based on the submitted evidence, I am not satisfied that the appeal scheme would meet any identified affordable housing needs within the district. Besides, as I have determined rent levels would be determined by means other than the planning obligation, the issue as to whether the proposal would form a Build to Rent scheme is not determinative in this appeal.
28. Consequently, taking the above into account, I conclude that the proposal would not make satisfactory provision for affordable housing in accordance with policy requirements and therefore would be contrary to CS Policy CP4 and the Affordable Housing SPD. This weighs against the proposal.

Other considerations

29. In supporting sustainable development paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless particular circumstances apply. This includes the essential need for a rural worker to live permanently at or near their place of work.
30. The Council's development plan is consistent with this approach. Policy DM2 of the DM and specifically Appendix 3, provides details on the Council's policy approach to determining when new residential development in the Green Belt may be justified if it is required for agricultural, forestry and other full-time rural workers. This is assessed based on functional need and financial viability. Notwithstanding the appellants arguments that Appendix 3 does not refer to equestrian use, both main parties agreed that an assessment based on functional need was appropriate.
31. In relation to the financial test, I recognise that the circumstances are unusual as there is no commercial enterprise to assess for viability. Nevertheless, the appellants have provided a letter from their financial adviser setting out the reasons why they are able to afford to employ a worker on a full-time basis and fund the day to day running of the holding. I note that they have employed a full-time worker since 2013. Based on the available evidence I see no reason why this would not continue. I therefore focus on the issue of functional need.

32. The appellants' supporting equestrian appraisal (March 2021) (the appraisal) is based on seven horses being on the site. The appraisal identifies the essential needs as the supervision and monitoring of the health and welfare of the horses, to provide security and to deal with any emergencies. The conclusion reached in the appraisal is that 'there is a need for at least one full-time worker to meet the established essential needs of the horses on site....' I note that the appellants currently live in a bungalow on the site, but are unable to manage the horses, due to their personal circumstances. Whilst the Council do not dispute the functional need for a rural worker to manage day-to-day activities, they do not consider that the employee needs to live permanently at the site.
33. There are well-established principles that if a functional need for a full-time worker is established it should not be capable of being met by any other existing accommodation in the area which is suitable and available for occupation by the worker concerned. In this context I note that the existing employee currently lives 3.5 miles from the site, which in my view is relatively near in terms of distance and involves a short travel time. I also have insufficient evidence to determine whether any other accommodation closer to the site is suitable and available, or whether an existing building on the site could be used or converted.
34. The appellants have bred horses in the past for their own personal use for showing and events, with the last foal born around three to four years ago. Since then, no further breeding has occurred. Whilst I acknowledge the appellants' desire to resume breeding, which I was told would occur every two years or so, this activity does not currently occur on the site. As such there is no need for the existing groom to supervise pregnant mares, manage the foaling process and raise young foals at present.
35. Nevertheless, I recognise that horses require adequate care and supervision and issues such as colic need to be dealt with promptly. In this regard I note that reference has been made to the groom having previously stayed on site overnight temporarily to assist with foaling and to care for horses with colic. However, the evidence does not clearly set out the details of these occurrences including in terms of their frequency, dates and times, and the length of any stays and the temporary accommodation arrangements. I acknowledge and sympathise with the loss of two horses in 2022 but based on the available details these do not in themselves justify a second permanent dwelling on the site.
36. I note the general security concerns raised and the desire for a permanent on-site presence to minimise risk, but the appellants already live permanently on the site. Even taking their personal circumstances into account, it is my view that this presence still acts as a deterrent. I also note that the site contains some CCTV, and that the existing employee can monitor this from his home. Based on the limited evidence provided of specific security issues and incidences that have occurred, I consider these aspects together provide a reasonable deterrent.
37. Consequently, based on the above, there is insufficient evidence to justify why the essential need for a rural worker should be met on the site, when the existing employee already lives nearby. The evidence does not sufficiently demonstrate why the care and supervision of the horses cannot continue to be managed through the existing arrangements or through other means as

highlighted above. Whilst I have given careful consideration to the personal circumstances of the appellants and their desirability for the development, the submitted evidence does not sufficiently justify the need for a permanent second dwelling on the site.

38. As for other considerations, the benefits of a single dwelling would only be of small significance in relation to the housing supply. Likewise, the construction of the dwelling would provide only limited economic benefits of a short term and temporary nature. Whilst the appellants suggest that the development would economically benefit the long-term management and operation of the holding and provide employment, this carries negligible weight as the dwelling would be for an existing worker and the holding is non-commercial. The suggestion that other equestrian businesses such as farriers, vets, and local suppliers, would benefit from the proposal carries only minimal weight.
39. Accordingly, having considered all the matters raised as other considerations in support of the development I conclude that they do not clearly outweigh the substantial harm that I have identified by reason of inappropriateness in the Green Belt and any other harm. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning balance and conclusion

40. It is agreed that the Council is unable to demonstrate a five-year supply of deliverable housing sites and therefore, in accordance with paragraph 11 d) of the Framework, policies which are most important for determining the application are out of date and permission should be granted, unless either of the two limbs are met.
41. I have concluded that the proposal would be inappropriate development in the Green Belt and that very special circumstances necessary to justify the development do not exist. In accordance with paragraph 11 b) i of the Framework this provides a clear reason for refusing the development despite the deficiency in the housing land supply. The presumption in favour of sustainable development therefore does not apply in this case. As a result, the development would be contrary to the development plan and the Framework when considered as a whole.
42. For the above reasons I conclude that the appeal should be dismissed.

Y. Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Krzys Lapinski	Consultant, KRL Planning Ltd
Mr Richard Farris	Agent, Farris Associates Ltd
Ms Olivia Wojniak	Associate, Reading Agricultural Consultants Ltd
Mr Jamie Roberts	Appellants' employee

FOR THE LOCAL PLANNING AUTHORITY:

Ms Suzanne O'Brien	Principal Planner, Three Rivers District Council
Ms Freya Edwards-Clewley	Senior Planner, Three Rivers District Council
Mr Adam Ralton	Team Leader, Three Rivers District Council

DOCUMENT SUBMITTED AT THE HEARING:

- 1 Section 106 Unilateral Undertaking – signed and dated 17 January 2023