



Appeal Decision

Site visit made on 9 May 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/P0119/W/22/3308551

**Wentwood Nurseries, Ram Hill, Coalpit Heath, South Gloucestershire
BS36 2TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nigel Potter (Wentwood Nurseries) against the decision of South Gloucestershire Council.
 - The application Ref P20/23743/RVC, dated 26 November 2020, was refused by notice dated 8 April 2022.
 - The application sought planning permission for change of use of agricultural land for the stationing of a mobile home for occupation by an agricultural worker (retrospective) without complying with a condition attached to planning permission Ref PT08/1361/F, dated 13 June 2008.
 - The condition in dispute is No 1, which states that: When the premises cease to be occupied by Mr. M. A. Draper, the use hereby permitted shall cease and the mobile home and all materials and equipment brought onto the premises in connection with the use shall be removed, and the land restored to its former condition.
 - The reason given for the condition is: The permission has been granted solely having regard to the special circumstances of the case and use not in accordance with the requirements of the condition would require further consideration of the Local Planning Authority in the light of the Development Plan, and other material considerations.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land for the stationing of a mobile home for occupation by an agricultural worker (retrospective) at Wentwood Nurseries, Ram Hill, Coalpit Heath, South Gloucestershire BS36 2TZ in accordance with application, Ref P20/23743/RVC, dated 26 November 2020, without compliance with condition number 1 previously imposed on planning permission Ref PT08/1361/F, dated 13 June 2008, subject to the following condition:
 - 1) The occupation of the development hereby approved shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependents.

Background

2. In 2008 planning permission was granted for the change of use of land at the appeal property to allow the stationing of a mobile home for occupation by an agricultural worker (hereafter referred to as the 2008 permission). This followed several other temporary planning permissions granted since 1983 for a mobile home at the site.

3. The disputed condition places a restriction on the 2008 permission so that only Mr M A Draper is allowed to occupy any mobile home. Mr Draper died in 2012. The appellant proposes removal of the disputed condition and the imposition of a replacement so that occupancy would be restricted to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person and to any resident dependents (hereafter referred to as the suggested condition). My assessment is made on this basis.
4. The submissions indicate there has been a mobile home on the site for some time, both before and since Mr Draper's death. As such, the appellant suggests there has been a breach of the disputed condition for more than 10 years and so the breach is now immune from enforcement action. It is not in my remit in the assessment of this appeal to decide on the lawful use of the site or whether any breach of the disputed condition is now lawful. It is open to the appellant to apply for a certificate of lawfulness in order to obtain a determination on this issue. Nonetheless, the planning history and use of the site for the stationing of a mobile home are largely agreed upon by the Council and the appellant.

Main Issues

5. The main issues are whether the disputed condition is required and reasonable in the light of (i) development plan policies on the location of residences, and (ii) Green Belt policies as set out in the development plan and the National Planning Policy Framework (the Framework).

Reasons

Location

6. Policy CS5 of the South Gloucestershire Local Plan Core Strategy 2013 (CS) looks to direct most new development to urban areas and settlements. As far as I am aware, the appeal property lies outside any settlement boundaries as defined under the CS or the South Gloucestershire Local Plan Policies, Sites and Places Plan 2017 (LP). Accordingly, it is in open countryside.
7. Despite CS policy CS5, LP policy PSP40 allows rural workers' dwellings in open countryside. However, LP policy PSP41 says these will be acceptable provided various criteria are complied with. Applicants need to demonstrate a clear functional need to live at the place of work; that the rural business has been established for at least 3 years and been profitable for 1 year; that the need cannot be met by an existing dwelling and that the proposal is satisfactorily sited in relation to the rural business.
8. The description of the development refers to the mobile home being used for an agricultural worker. Also, the suggested condition would restrict occupancy. Therefore, in principle, the mobile home would be an acceptable form of residential development in the countryside.
9. No information has been submitted to show that an agricultural business is currently being operated from Wentwood Nurseries. As such, there is a reasonable doubt as to whether the mobile home satisfies an existing functional requirement. In these regards, there is a conflict with LP policy PSP41.
10. However, the series of temporary planning permissions for a mobile home indicate an acceptance that there is a functional need for a rural worker to live

at the property when the nursery business is operating. No explanation is provided by the Council as to why a permanent permission for the mobile home use has not been granted whereas a series of temporary consents was considered acceptable. To my mind, the planning history and the permitted presence of a mobile home for a considerable time justify a departure from the strict application of the criteria in LP policy PSP41.

11. Therefore, subject to the imposition of the suggested condition, I conclude the development is in a suitable location having regard to development plan policies. In these respects, it accords with CS policy CS5 and LP policy PSP40. LP policy PSP41 is not adhered to in its entirety but the particular circumstances of this case justify allowing the development contrary to this policy. CS policy CS34 is referred to in the Council's refusal reasons but it contains no provisions on the location of residential development.
12. It follows from the above conclusion that the development is in a suitable location, regardless as to the personal circumstances of any occupant. Therefore, the disputed condition is unnecessary to make the development acceptable in these regards.

Green Belt

13. The appeal site lies in the Green Belt. LP Policy PSP7 states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances exist that clearly outweigh the harm to the Green Belt as well as any other harm. The policy accords with paragraph 147 of the Framework.
14. It is the Council's contention that the change of use of land to allow a mobile home at the site is inappropriate development in the Green Belt. In granting the 2008 permission, the Council contends that Mr Draper's personal circumstances clearly outweighed the harm caused by the mobile home. The appellant disputes this and says Mr Draper made no case based on personal circumstances for granting planning permission in 2008. As such, it is argued the disputed condition is unnecessary.
15. The appellant does not challenge the Council's view that the stationing of a mobile home is inappropriate development in the Green Belt. The change of use reduces and does not preserve openness and so, in light of paragraph 150 of the Framework, it is inappropriate development in the Green Belt. However, the visual effects are quite localised and restricted to views from within the nursery, from adjacent properties and from the road over the gates and through the access. Also, the mobile home is seen alongside glasshouses and in the context of a hardstanding area. Consequently, only a limited level of harm is caused to openness.
16. The personal circumstances that existed in 2008 no longer apply. However, a key factor is that a mobile home has been stationed on the site for a significant period of time. Since Mr Draper's death, the presence of the mobile home has been in breach of the disputed condition. Nonetheless, from 1983 up until 2012 an authorised mobile home has been on the appeal property. During this period, the defined appeal site has not contributed towards the fundamental aim of Green Belt policy to keep land permanently open. Also, visitors to the site and surroundings will have become accustomed to a mobile home being at the property.

17. The Framework states that substantial weight should be attributed to harm to the Green Belt, although the development causes only a minor loss of openness. I have identified no other harm that weighs against the appeal development.
18. In favour of allowing the appeal is the site's unusual planning history and the long term presence of a mobile home. These factors in themselves attract considerable weight. Also, through the suggested condition, there is a reasonable prospect that the occupants would support agricultural or forestry businesses on the site or nearby. This also adds in favour of the development. Moreover, the Planning Practice Guidance (PPG) highlights that planning permission runs with the land and it is rarely appropriate to provide otherwise.¹ Allowing this appeal without the imposition of the disputed condition would accord with this advice. This also adds support towards granting planning permission as proposed.
19. Overall, these other factors clearly outweigh the totality of the identified harm. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. As such, it accords with LP policy PSP7 and CS policy CS34, which seek to protect the Green Belt from inappropriate development unless other considerations clearly outweigh the harm caused. CS policy CS1 is referred to by the Council but this contains no provisions relevant to this issue.
20. It follows from the above conclusion that the acceptability of the development in terms of Green Belt policy is not reliant upon the personal circumstances of any occupant. Accordingly, the disputed condition is unnecessary to ensure the development complies with Green Belt policy.

Conditions

21. The Council raises concern that the suggested condition is too general as it does not relate specifically to Wentwood Nurseries and would allow those who have retired from working to reside at the site. Also, it is contended that occupation that meets a general need for agricultural or forestry workers in the wider area is too vague and should not be allowed.
22. The wording of the suggested condition is typical of those that are attached to planning permissions for rural workers dwellings. It is adequate in terms of precision and enforceability. As an example as to what may be appropriate, the aforementioned part of the PPG refers to the use of planning conditions that limit new residential accommodation for agricultural or forestry workers. This adds further support for the suggested condition.
23. Moreover, LP policy PSP41 does not require occupation of rural workers' dwellings to be restricted to workers at a specified place of employment. Such a limitation would be unnecessary to meet planning policy requirements and so it would be unreasonably onerous.
24. However, I have assessed the appeal on the basis that the mobile home use would have restrictions on occupancy as set out in the suggested condition. There is little evidence to show the development would be acceptable without the proposed limitations, particularly given the countryside location of the site.

¹ Planning Practice Guidance, Use of Planning Conditions, Paragraph: 015 Reference ID: 21a-015-20140306, Revision date 06 03 2014

Accordingly, the suggested condition is necessary and it is imposed. I have slightly amended its wording in the interests of precision.

25. The 2008 permission is only subject to the disputed condition. There are no others that need to be re-imposed with this appeal decision.

Conclusion

26. For the above reasons, the disputed condition is unnecessary to make the development acceptable. It is also unreasonable. Therefore, I conclude the appeal should succeed.

Jonathan Edwards

INSPECTOR