



Appeal Decision

Hearing held on 2 May 2023

Site visit made on 2 May 2023

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/W4705/W/23/3316063

Baby Barn Farm, Hebden Bridge Road, Oxenhope, Keighley BD22 9QE

- 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 Challoner against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 22/02473/FUL, dated 6 June 2022, was refused by notice dated 4 November 2022.
 - The development proposed is siting of static caravan, 2 x containers and 1 polytunnel.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the Council's Decision Notice as it is considerably more succinct than that on the application form. Whilst I have no evidence that the amended description was agreed in writing, both parties have used the description in their submissions, so I am satisfied that no one is prejudiced by this approach.

Main Issues

3. The main issues in this appeal are:-
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (2021) (the Framework);
 - the effect of the development on the character and appearance of the area;
 - the effect of the development of the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC); and,
 - if the proposal is inappropriate development, 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 it.

Reasons

Whether inappropriate development

4. The Council accept that the containers and polytunnel are necessary for the purposes of agriculture and are content that they accord with exception a) of Framework paragraph 149. I have no reason to question that assessment. The static caravan remains the outstanding matter.

5. The static caravan does not constitute the construction of a new building. The caravan could be brought onto the site on the back of a low loader, and it would have wheels. Whilst it may be subsequently anchored to the ground, for stability reasons given potential poor weather conditions, it is capable of being easily moved off the site.
6. In respect of this matter, Framework paragraph 149 states that the construction of new buildings is inappropriate in the Green Belt unless they are "buildings for agriculture or forestry". As the static caravan would not be a building or used for agriculture, it would not meet the exceptions in Framework paragraph 149.
7. Although the use of the static caravan supports the agricultural operation, it is primarily intended for residential use and it is not an agricultural use. Therefore, using the land in this manner would be a material change of use. This is potentially not inappropriate in the Green Belt provided openness is preserved and the proposal does not conflict with the purposes of including land within it.
8. In considering the visual dimension of the effect on openness, using the land to site a static caravan is conspicuous when viewed from the adjacent highway, given the position of development and the topography of the land. The static caravan is positioned on elevated land and is easily visible. In spatial terms, using the land to station a static caravan does not preserve the openness of the Green Belt. Also, owing to the position of the static caravan on the land, which is on the edge of the existing cluster of agricultural chattels, there is also some encroachment into the countryside. Hence, the proposal does not preserve the openness of the Green Belt and it conflicts with one of the purposes of Green Belt which is to safeguard the countryside from encroachment.
9. I therefore conclude on this main issue that the proposal amounts to inappropriate development in the Green Belt. The proposal does not therefore accord with Strategic Core Policy 7 of the Core Strategy Development Plan Document (CS), saved Policy GB1 of the Replacement Unitary Development Plan for the Bradford District or Framework paragraphs 149 and 150. This is a matter to which I afford substantial weight as directed by the Framework. It is of note that 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.

Character and appearance

10. This locality is characterised by mainly open fields with sporadic clusters of small development. The caravan is positioned on elevated land, and on the edge of the cluster of existing structures and buildings which are mainly confined to land at a lower level.
11. I find that to a limited degree the proposal erodes the essentially open and rural character and appearance of this part of the countryside. I accept that the adverse effects are quite localised, but nonetheless, harm is caused. Cladding the static caravan would not, in my view, overcome the harm that I have identified, whether that is for a full planning permission or a temporary one as the proposal would still erode the open and rural character of the area.
12. Therefore, on this matter, I conclude that some limited harm is caused by the proposal to the character and appearance of the countryside. Conflict arises with CS Policies EN4, DS1 and DS2 which, amongst other matters, set out the criteria for adverse landscape and visual effects. I also find conflict with Framework

paragraph 174 which states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

South Pennine Moors SPA/SAC

13. The site is located in Zone A (within 400m) of the SPA/SAC which is a moorland landscape on a rolling dissected plateau formed from rocks of Millstone Grit with a greater part of the gritstone overlain by blanket peat with coarse gravelly mineral soils and shales on the lower slopes. The qualifying features of the SPA/SAC are: Northern Atlantic wet heaths; European dry heaths; blanket bogs; transition mires and quaking bogs; and old sessile oak woods with Ilex and Blechnum in the British Isles.
14. Policy SC8 advises that development with a net increase in dwellings will not be permitted unless, as an exception, the development and/or its use would not have an adverse effect upon the integrity of the SPA or SAC. Development in Zones B and C, which cover distances farther from the SPA can investigate the possibility of a payment to mitigate potential impacts.
15. Whilst the appellant has submitted a biodiversity assessment, there is little included with regard to, avoidance of, or mitigation of, the effects on the SPA/SAC. There is also no assessment on the proposal's potential effect on the qualifying features of the SPA/SAC. As such, I can not be sure that the integrity of the SPA/SAC has not/is not being adversely affected.
16. I understand that the appellant has made a mitigation payment to the Council. However, this does not change my view that robust evidence considering the effect of the proposal has not been provided to suggest that the proposal qualifies as an exception. Therefore, the proposal conflicts with CS Policy SC8, which sets out criteria for establishing zones and how they can lead to an adverse effect on the SPA/SAC, and the proposal causes harm to the integrity of the SPA/SAC.

Other Considerations

17. Framework paragraph 80 sets out that the development of isolated homes in the countryside should be avoided unless one or more of the listed circumstances apply. Of relevance here is whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
18. The appellant's main justification for the static caravan is to allow him to live on site ensuring a continuous on-site presence given his responsibilities towards the livestock. The appellant points to the benefits of day and night supervision within sight and sound of the animals.
19. At the hearing, the appellant confirmed the number and type of animals on the site which is approximately 1.5 acres in size. The operation is relatively small in scale based on what I heard and saw. The appellant also confirmed at the hearing that he rents a further 36 acres of land, approximately 30 minutes away, but this is for hay usage, and it is visited by the appellant on a weekly basis, with a family member checking on the site in-between as they pass the land frequently.
20. Supervision was explained by the appellant to be especially pertinent given the threat of animal seizures, theft and vandalism, due to the isolated location of the site. The potential financial consequences of losing animals were also explained

to be a concern and a risk for him. Furthermore, the advantages and importance of living on site should animals at any time require essential care at short notice, was also highlighted by the appellant.

21. The subject of rural security is a real concern to the appellant, and I am mindful of the Animal Welfare Act 2006 and the appellant's responsibilities for animal welfare. However, I have no evidence in front of me showing details of thefts or intruders or other incidents occurring at the site or indeed that the site is vulnerable to crime. There is no evidence before me to demonstrate that the presence of a static caravan on site does indeed deter intruders. The appellant's responsibilities also do not alone justify living on the site.
22. The appellant already has some CCTV on site, but he does not rely on CCTV. The site is supplied by both solar power and a backup generator for electricity and there is nothing before me to demonstrate that technology as a means of remote supervision of the animals, to negate the need to live on site, could not or has been further explored. For instance, technology could involve both vision and sound to allow the appellant to remotely view and monitor the animals and buildings during the day and night.
23. The appellant may well have aspirational ambitions to grow the scale of this small-scale agricultural business, which has been ongoing since September 2021, but I have limited details before me to demonstrate how and when any scaling up would occur. Although the appellant says that the business has been doing well, and the sustainable growth and expansion of rural businesses is supported by Framework paragraph 84, I have no objective evidence before me to substantiate this claim. I also do not have a business plan for the next three years before me showing profit and investment forecasts. I do not doubt that the appellant has invested money in stock and the site, but that does not mean that going forward the agricultural enterprise could reasonably support a full-time residential presence, even for a temporary three-year period.
24. Overall, the evidence does not show me that the business can reasonably sustain an agricultural worker, whether that is on a permanent or temporary basis, to test whether the operation is viable. I also find that there is limited evidence to demonstrate that in the next three years the enterprise has been planned on a sound financial basis or that it would be viable. In addition, there is no credible evidence of a firm intention and ability to further develop the enterprise concerned.
25. I have no doubt that it is more convenient to live on the site compared to alternative accommodation in Oxenhope, and it could be important for the welfare of the animals at key times, I am not convinced that there is an essential need for someone to be on site 24-hours a day all year-round. I also recognise that the appellant may have undergone other personal hardship that have contributed to his current living circumstances. Whilst this is unfortunate for the appellant, and the site is located in the countryside beyond existing settlements, the static caravan in this location is not essential for the operational needs of agriculture on the appeal site based on the evidence before me. As I am not persuaded that a case has been made to justify permanently living on the site or temporarily for the next three years, the proposal does not meet any of the exceptional circumstances as listed in Framework paragraph 80.

Planning Balance

26. The containers and polytunnel are necessary for the purposes of agriculture and

they accord with Framework paragraph 149 a). However, looking at the scheme overall, the static caravan is inappropriate development in the Green Belt and this is a matter to which I afford substantial weight. There is also harm caused to the character and appearance of the countryside and the SPA/SAC. These harms would be permanent and irreversible if I were to grant permanent planning permission for the static caravan. In respect of the alternative temporary planning permission, the harm to the countryside would be modest, and the harm to the Green Belt would be time limited to any period that the static caravan is on the land. The harm to the SPA would remain the same, taking a precautionary approach.

27. I recognise that farming the land does have limited economic benefits. However, I have concluded that there is not an essential need for a rural worker to live permanently on the site, even for a temporary period, but that does not mean that the farming activity cannot continue. I also recognise that the appellant has sought to engage with the Council with a view to finding a solution in respect of the appeal site.
28. However, I conclude that the Green Belt harm, and the other identified harms arising from the proposal are not clearly outweighed by other considerations that would amount to the very special circumstances necessary whether that be for a permanent or temporary planning permission.

Conclusion

29. The proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
30. As a result, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Keith Challoner – Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Paul Verity – Planning Officer