



Appeal Decision

Hearing held on 12 July 2023

Site visit made on 12 July 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2023

Appeal Ref: APP/P2365/W/23/3319391

Sandyways Farm, Hoscarr Moss Road, Lathom, Lancashire, L40 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss M Gorst against the decision of West Lancashire Borough Council.
 - The application Ref 2022/1053/OUT, dated 29 September 2022, was refused by notice dated 13 January 2023.
 - The development proposed is described as 'Outline application for 1 no agricultural workers dwelling, including details of access (all other matters reserved)'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Prior to the Hearing an application for costs was made by Miss M Gorst against West Lancashire Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline, with access to be considered at this stage. The remaining matters of appearance, scale, layout and landscaping are therefore reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted plans where pertinent as an indication of the proposed development.
4. At the Hearing the Council indicated that, as a result of the findings in a recent appeal decision¹ at a nearby site, it had withdrawn its first reason for refusal concerning whether the proposal represented an isolated dwelling in the countryside.

Main Issues

5. In light of the above, all that I have read, and the discussions at the Hearing, I consider that the main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt;
 - (ii) The effect of the proposal on the openness of the Green Belt and the character and appearance of the area;

¹ APP/P2365/W/22/3291480

- (iii) If the proposal would be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including whether there is an essential need for an additional dwelling to accommodate a rural worker at the site, so as to amount to very special circumstances necessary to justify it.

Background

6. Sandyways Farm is an established dairy farm, that has been operating since 1943 and occupies a total of approximately 180 acres of agricultural land. Eighty acres of this is freehold, with the remainder rented on tenancy agreements and informal arrangements. It currently has a typical total livestock of around 105 animals, including cows, bulls, calves and in-calf heifers. The site is also located within the boundaries of the Green Belt.
7. At the Hearing I heard that the appellant's father is retiring and that it is intended for the appellant to take over the management of the farming business. It was also put forward that as the appellant's father is to remain residing in the existing farmhouse on the site, the proposed dwelling is required for the appellant and her partner to live in and provide an essential 24-hour presence on the site.

Reasons

Whether Inappropriate Development

8. Policy GN1 of the West Lancashire Local Plan 2012-2027 Development Plan Document 2013 (the Local Plan) advises that development proposals within the Green Belt will be assessed against national policies. Paragraph 147, of the National Planning Policy Framework (the Framework), states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. These exceptions include (a) buildings for agriculture and forestry; and (e) limited infilling in villages.
9. Nonetheless, dwellings for rural workers in agriculture or forestry are primarily intended for residential use. Consequently, even though they are intended to support such a use, they are not buildings for agriculture or forestry.
10. There is also no definition in the Local Plan or in the Framework of 'limited infilling' and it is therefore a matter of planning judgement for the decision maker. Given the visual space and intermittent open areas between the nearby existing properties along the north-western side of the Hoscar Moss Road highway there is little coherence to the built form here. The appeal site is also set well back from the frontage of Clifton House and the existing farmhouse, retaining a large area of grassland in front of it.
11. Therefore, visually and spatially the proposed dwelling would not infill a 'gap' between these neighbouring buildings. It would also not be positioned within an area that would logically be seen as replicating or completing the prevailing pattern of development.

12. In light of the above, the proposal cannot be characterised as limited infilling. Accordingly, it would not represent limited infilling in a village, and would also not fall within any of the exceptions stated in Paragraph 149 of the Framework. For these reasons, it would therefore represent inappropriate development that is, by definition, harmful to the Green Belt.

Openness and Character and Appearance

13. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the absence of development and has both spatial and visual dimensions.
14. Whilst there are some other dwellings in the vicinity, the immediate surroundings are characterised by more sporadic development where buildings are generally dispersed and separated by intermittent fields and open, undeveloped areas. There is also a wider network of agricultural fields directly to the rear of the site and on the opposite side of Hoscar Moss Road. As an area of grassland, the appeal site therefore has more affinity with and reads very much as a part of the adjacent open agricultural landform and countryside.
15. I appreciate that the proposed layout plan is only indicative, and the details of the proposed dwelling's layout, scale and appearance are reserved for future approval. However, the introduction of a dwelling and detached garage, outside the existing farm complex development, and in an area which is currently undeveloped, would inevitably impact upon openness and appear visually conspicuous in the context of this spacious verdant site.
16. As a result, I find that the proposed development would reduce the openness of the Green Belt in both visual and spatial terms, causing harm to the verdant character and appearance of the surrounding area. It would thereby conflict with Policy GN3 of the Local Plan where it seeks to protect character and appearance.
17. Given the failure to preserve the openness of the Green Belt, and my reasoning in respect of its visual affinity with the adjacent landform, it therefore follows that the proposal would impact on the Green Belt purpose of safeguarding the countryside from encroachment as set out at paragraph 138 of the Framework.

Other Considerations

18. Although the Council's remaining reason for refusal does not specifically refer to essential need, it does set out that the proposal would be inappropriate development in the Green Belt and that the submission fails to demonstrate very special circumstances sufficient to outweigh the identified harm. In coming to this view, the Council's planning officer report clearly raises concerns about the financial viability of the enterprise, and the essential need for the proposed dwelling is a central tenet of the Council's case in this respect.
19. Essential need is also raised as an area of dispute in the Statement of Common Ground and in the main parties' submitted evidence. As such I am satisfied that this is an important area of disagreement between the main parties and a matter on which the decision may turn. It is therefore required to be given due consideration in this appeal.

20. There is no specific Local Plan Policy in respect of essential need. However, the withdrawn guidance within Annex A of Planning Policy Statement 7: *Sustainable Development in Rural Areas*, sets out a tried and tested methodology for assessing if there is an essential need for an agricultural worker's dwelling on a holding. These are the functional and financial tests. At the Hearing the appellant accepted that Annex A, whilst cancelled, provides a useful guide.
21. I am aware that the Framework does not include an explicit financial test; it simply requires a judgement to be made about whether there is an essential need for a rural worker to live permanently at or near the relevant site. Nevertheless, it is reasonable to expect evidence concerning the financial soundness of a business and its ability to endure. It would be difficult to find that there was an 'essential need' in relation to a business that had little or no prospect of sustaining.
22. Indeed, the Planning Practice Guidance (PPG) details considerations that may be relevant to take into account when assessing essential need. These include: 'the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.' In my view, it is therefore reasonable to consider the functional need and financial viability of the rural enterprise.
23. It is common ground between the main parties that a functional need for 1 full-time agricultural worker has been established and that this is currently being fulfilled by the appellant's father. I have no reason to question this.
24. I have also been referred to the Keen judgement² in support of the point that the existing farmhouse dwelling is not available to meet the need advanced in this case. This found that it was insufficient for accommodation to merely exist, and that it was necessary to determine whether or not it can reasonably be held to be available. The Council does not dispute the relevance of the Keen judgement², and at the Hearing agreed that given the appellant's father's desire to remain at the existing farmhouse after his retirement, this accommodation is not available. I have no substantive reason to disagree with this.
25. These changing family circumstances are part of the farm succession process, and based on the evidence before me, an additional dwelling would support the transition of the farm's management to the next generation. This is an important and relevant consideration which is set out in the PPG³. The timing of the appellants' father's retirement is a matter for the farm business to manage, and the lack of a specific date is not a matter which would justify withholding permission for the development.
26. I am also mindful that the submitted annual accounts for the period between 2019-2021 indicate that the enterprise has been profitable for 2 of the last 3 years. However, in these 2 profitable years (2019 and 2021) the profit levels have been modest at £19,800 and £12,586 respectively and I have not been provided with the latest accounts for 2022. Furthermore, no other substantive evidence or forecasts regarding the on-going sustainability and viability of the enterprise has been submitted, including the eligibility for continued subsidiaries.

² Keen v Secretary of State for the Environment and Aylesbury Vale District Council [1996] JPL 753

³ Paragraph: 010 Reference ID: 67-010-20190722

27. There is little before me to suggest that the current informal tenancy agreements would not be likely to continue in the future, or that the security of the land would significantly affect the viability of the enterprise. However, I am mindful that the business relies heavily on unpaid labour to support the workload of the holding, which is unsustainable, and conceals a legitimate cost to the business. If factored into the accounts this would impact further on profitability.
28. Furthermore, no formal estimated build costs of the proposed dwelling are before me. At the Hearing the appellant asserted that this would be in the region of £140-£150k whereas the Council gave an estimate of around £150-£180k. Nonetheless, given the outline nature of the proposal there is uncertainty about the proposed dwelling's size and scale, and the likely subsequent cost of construction is therefore unknown.
29. The appellant's evidence indicates that the proposal would be a 2-storey detached 3 or 4 bedroom property (dependant on whether one of the rooms is to be used as an office), with a detached garage also shown on the indicative site location plan. However, there is little functional justification for the enterprise to be served by a 3 or 4 bedroom detached dwelling. Any detached garage would also be excessive, particularly as there would be ample space on the site to park vehicles. I am therefore unable to conclude, on the basis of the evidence before me, that the proposal would be of a size commensurate with the established functional requirement.
30. Moreover, given my concerns about the finances, insufficient evidence has been presented to demonstrate that the business would be capable of supporting the construction of the dwelling and sustaining it in the long-term. Whilst I note that the construction costs of the dwelling are intended to be privately funded, it is the unit and activity concerned which must be profitable of itself and have the clear prospect of remaining so in the future.
31. I am mindful that the Framework explicitly seeks to support economic growth, productivity and a prosperous rural economy. I am also aware that the existing enterprise supports other local businesses and the local community. However, in view of the financial considerations above, and the uncertainty about the size and cost of the proposed dwelling, I am unable to find that the enterprise justifies the permanent residential accommodation proposed. This means that whilst there is a demonstrated essential functional need for a new dwelling, based on the information that is before me I can only afford it limited positive weight in the overall Green Belt balance.
32. My attention has been drawn to a number of site plans for agricultural workers dwellings in the countryside and Green Belt locations that have previously been granted planning permission in the Lancashire area. Nonetheless, on the evidence presented I cannot be certain that they represent a direct parallel to the proposal. In any case, it is likely that in these cases the essential need for a rural worker to live permanently at or near their place of work was justified, which I do not consider to be the case in this appeal.
33. Furthermore, although the proposal would not represent an isolated home in the countryside, the absence of harm in this respect is a neutral factor which does not weigh in favour of the proposed development in the overall Green Belt balance.

Green Belt Balance

34. I have found the proposal to be inappropriate development in the terms set out by the Framework, and to result in harm to the openness to the Green Belt. The Framework requires me to give these collective harms substantial weight. In addition, it would have a harmful effect on the character and appearance of the area. The other considerations, referred to above, do not therefore clearly outweigh the substantial harm that I have identified due to inappropriateness and loss of openness, and other harm to the character and appearance of the area. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the development conflicts with Local Plan Policies GN1 and GN3, and with Section 13 of the Framework which seeks to protect Green Belt land.

Conclusion

35. The appeal scheme consequently conflicts with the development plan and there are no material considerations, including the approach of the Framework, which would indicate a decision otherwise in accordance with it. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Harrison
Molly Gorst
Rob Gorst

P Wilson & Company
Appellant
Appellant's Father

FOR THE LOCAL PLANNING AUTHORITY:

Emma Bailey
Kate Jones

West Lancashire Borough Council
West Lancashire Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter of support from Borough Councillor for Lathom and Hoscar
2. Council's Response to appellant's costs claim