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## Appeal Decision

Hearing held on 17 January 2024

Site visit made on 17 January 2024

**by J Gunn DipTP, DipDBE, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 February 2024**

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**Appeal Ref: APP/P0240/W/23/3330992**

**Fox Covert Farm, Fordfield Road, Millbrook, Bedford MK45 2HZ**

- 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 Ms Jean Halls against the decision of Central Bedfordshire Council.
  - The application Ref CB/23/01830/FULL, dated 31 July 2023, was refused by notice dated 14 September 2023.
  - The development is the retention of a single residential dwelling (personal permission) in association with the approved riding school and livery business.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the 'Framework'). The Council referred to an earlier version of the Framework in their first reason for refusal. Whilst the paragraph numbers may have changed in the December version the contents of Section 13 which relate to Green Belt matters remains largely unchanged. I have received confirmation from the main parties that they have no further comments to make on this matter.
3. The development is retrospective in nature as the dwelling, which takes the form of a log cabin, has been located on the appeal site since around 2014. It is currently occupied by Ms Halls.
4. Prior to the hearing the appellant submitted a revised plan extending the red line to include the private access drive north of the original site. This results in vehicular access to the appeal site from Fordfield Road being retained in its current position. A certificate A was submitted with the revised plan. The Council has confirmed that the Highway Authority and other parties that have expressed an interest in the proposal have been notified of the changed situation and have been given the opportunity to comment. I have been provided with a copy of comments from the Highway Authority and a third party in response to this notification and have made the main parties aware of any issues that have been raised. These will be addressed in my reasoning below. Consequently, I am content that no party has been disadvantaged by the submission of the revised plan, and I have therefore had regard to it in my determination.

5. At the beginning of the hearing the appellant sought to introduce further evidence relating to 1) Works undertaken by the appellant to restore the appeal site to a condition that would allow the riding school and livery business to function, 2) Supporting evidence to confirm that the appellant has a right of access across that part of the private drive, that is included in the extended red line as shown on the revised plan, 3) Details of profit made during the appellants operation the business during the period from 2014 until it was sublet to another operator, and 4) Facts relating to the horses that are kept at the appeal site, including financial details and their ownership.
6. Prior to accepting any late evidence, I sought to establish whether it was relevant and why it had not been received within the timetable set within the Procedural Guide. I also asked for the views of other parties present and considered whether an adjournment would be required to enable the evidence to be fully evaluated.
7. I agreed that details of the restoration works and matters relating to the right of access were relevant and did not change the nature of the proposal. Therefore, I was content for this information to be admitted. However, the financial evidence was more detailed in nature and would require careful analysis. Despite the assertions of the appellant that insufficient time had been available to collate the information, I was not persuaded that this could not have been submitted at an earlier time. In taking this view, it was clear to me the agent was aware in March 2023 that he would be expected to provide evidence to demonstrate the necessity (as opposed to the desire) for Ms Halls to reside on site. Moreover, the third reason for refusal in the Council's decision notice, which is dated 14 September 2023, indicates that the lack of information, including matters of a financial nature, was a key factor that led to the refusal of the application. I was content for the appellant to give details of the number and ownership of the horses verbally. The appellant agreed not to submit any additional evidence that included financial information. The Council was content to proceed on this basis.

## **Main Issues**

8. The main issues in this case are:
  - Whether the development is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
  - The effect of the development on the openness of the Green Belt;
  - The effect of the development on the character and appearance of the area;
  - Whether the occupants of the development would have reasonable access to goods and services;
  - The effect of the development on highway safety; and
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations including whether there is an essential need for a rural worker to live permanently at the site, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Background*

9. The appeal site comprises land owned by the appellant at Brook Stables. In 2013 planning permission<sup>1</sup> was granted for a riding school and livery, erection of a barn to house horses, the erection of buildings to store tack and feed and the erection of a log style mobile home as temporary residential accommodation associated with the business. A further permission<sup>2</sup> was granted in 2014 for the erection of an open fronted hay barn, wooden office and storage shed and two containers for tack storage and horse feed, a toilet, and alterations to the design of the temporary cabin.
10. Conditions were imposed on both permissions limiting them to a period of 3 years from the date of the decisions and restricting the benefit of the permissions to Ms Halls only. The main parties agree that the log cabin that has been erected on the appeal site accords with the second permission.
11. In 2017, due to personal circumstances, the appellant leased the management and running of the riding school and livery to another party. Between 2017 and 2022 Ms Halls applied, on two separate occasions<sup>3</sup>, to retain the log cabin/mobile home for her own personal use. Permission was denied on both occasions. For financial reasons, the lease to the third party was surrendered and the appellant is now back in control of the business.
12. An enforcement notice was issued in August 2020 requiring, amongst other things, the cessation of use of the residential use of the log style mobile home and its removal from the land. A subsequent appeal (APP/P0240/C/20/3258124 – referred to as the previous appeal decision) was dismissed in February 2021. In reaching her decision the Inspector considered that the development was inappropriate development in the Green Belt and there would be an appreciable reduction in the openness. She also found that the development resulted in modest harm to the character and appearance of the area and that it had not been demonstrated that the site was in a suitable location for the development. Having considered the appellant's personal circumstances she concluded that they were not, either individually or in combination, sufficient to clearly outweigh the harm to the Green Belt and other harm that she had identified. The previous appeal decision is a material consideration in the determination of this appeal.

### *Whether inappropriate development*

13. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
14. The Central Bedfordshire Local Plan 2015 – 2035 was adopted in July 2021 and is consistent with the Framework. In particular Policy SP4 makes it clear that 'within the Green Belt there is a general presumption against inappropriate development' and that 'development proposals within the Green Belt will be

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<sup>1</sup> CB/13/00161/FULL

<sup>2</sup> CB/13/02315/FULL

<sup>3</sup> Planning applications referenced CB/17/03794/FULL and CB/19/02114/FULL

assessed in accordance with government guidance contained within the Framework and National Planning Practice Guidance.

15. In my assessment of the proposal, I am alive to the fact that a log cabin has stood on the appeal site since 2014. Moreover, its size and appearance have remained largely unchanged thereafter. That said, planning permission CB/13/02315/FULL required the removal of the building by 30 April 2017, and consequently the Council are of the view that its siting is unlawful, and the log cabin should be considered as new for the purpose of the Framework. Although the Framework does not define 'new buildings,' it does define previously developed land as land which is or was occupied by a permanent structure. The grant of a temporary permission supports the view that the log cabin cannot be considered a permanent structure. Therefore, taking all of these factors into consideration I have adopted a cautious approach and have assessed the proposal as a 'new building.'
16. The main parties at the previous appeal agreed that the development represented inappropriate development in the Green Belt (paragraph 6 of the decision letter). However, paragraph 6.1 of the statement of common ground clearly sets out that this is an area of disagreement for the current case.
17. The appellant's case is predicated on the basis that the situation is no different to that which existed in 2013/2014, with the size and appearance of the building being the same as it was 10 years ago, and the business being operated by the Ms Halls. Moreover, she asserts that the development would not breach any of the five overarching aims of the Green Belt as set out in paragraph 143 of the Framework.
18. Notwithstanding the above, on being challenged on whether the development fell into any of the exceptions within paragraph 154 the appellant accepted that this was not technically the case.
19. In my assessment I have taken into account other developments that have been carried out in the locality, including the Centre Parc development, and the Crematorium that is currently under construction. Although no substantive evidence was produced, I was informed by the Council that the Centre Parc scheme was allowed because of the employment generated by the development, and this amounted to very special circumstances. The Crematorium was allowed based on the specific space requirements of the development, albeit the Council accepted that other locations outside the Green Belt were considered. From what I have seen and read I do not consider that these schemes provide a precedent for the appeal development, which I have assessed on its own merits.
20. I accept that the management of the riding school and livery business situation has changed from that which existed in 2021. There is no dispute between the main parties that the business is now back in the control of the Ms Halls. This is a matter I will come back to when I consider whether very special circumstances exist.
21. Accordingly, having taken all of these factors into consideration, I concur with the previous inspector that the appeal development constitutes inappropriate development within the Green Belt as it does not meet any of the exceptions in paragraph 154 of the Framework.

### *Openness*

22. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and permanence. The inspector who dealt with the previous appeal was of the view that, based on the evidence before her, the appeal site would have had a generally open character prior to the log cabin being sited on it. Furthermore, she considered that the large size of the log cabin and its resultant footprint, together with fencing and other domestic paraphernalia, had resulted in an appreciable reduction, in spatial terms, in openness.
23. Whilst accepting that woodland in the locality has matured and there has been some weathering of the log cabin there has been no appreciable difference, in terms of openness, since the previous appeal decision was issued. This view was accepted by the appellant at the hearing.
24. I have also taken into account the views of the main parties with regards as domestic paraphernalia, and the contribution it might have to the openness and urbanisation of the appeal site. I was informed at the hearing that it was the appellants desire to live in a self-sufficient manner and this explained the presence of chickens and solar panels. On my site visit I noted raised planting beds which would enable vegetables to be grown within a fenced off area adjacent to the log cabin, albeit there was little evidence of them being in active use at the time. There were some small sheds immediately to north of the log cabin. However, the greenhouses, that appeared to have been present at the time of the previous appeal had been removed from the site.
25. Whilst noting there has been a reduction in physical structures associated with the residential occupation of the log cabin, I agree with the previous inspector that the continued presence of domestic activity, within a space defined by fencing, has added to the urbanisation of the appeal site.
26. I also acknowledge that the log cabin is located a significant distance from Fordfield Road and, in visual terms, is largely screened by wooded areas from the public realm. Views from Flitwick Road which is located to the south of the appeal site were distant and limited by vegetation affording only glimpses of the log cabin. As a result, I accept that the visual impact of the development is limited and localised. That said, the development results in the urbanisation of the appeal site that is clearly apparent from the access track and neighbouring land.
27. Accordingly, for the reasons given above, I conclude that the siting of the log cabin has an appreciable harmful effect on the openness of the Green Belt and also amounts to encroachment into the countryside. This is in conflict with one of the purposes of including land within the Green Belt as set out in paragraph 143 of the Framework.

### *Character and appearance*

28. The appeal site sits on the Mid Greensand Ridge which runs between the M1 motorway and the A1 trunk road. It is characterised by mainly open, rolling hills interlaced with wooded areas. The land is predominantly used for agricultural purposes.
29. Notwithstanding the open character of the area, I am aware that there are a number of physical developments close to the appeal site including storage

facilities on Fordfield Road, the Dog Day Care business, Centre Parcs and the Crematorium. These developments have clearly contributed to an evolution of the character and appearance of the area.

30. The main parties accept that the development does have some impact on the character and appearance of the area but disagree over the extent of any harm or the weight that I should attribute towards that harm. For the reasons given above, it is clear to me that there are only limited views of the log cabin and as a result any harm is localised. The use of timber cladding helps integrate the building into its surrounding. I also appreciate that such buildings are sometimes found in countryside locations. That said, the log cabin and its fenced curtilage have introduced development onto a parcel of land that was previously devoid of any structures. As a result, the development has eroded the open character and appearance of an area resulting in a fundamental change to the appearance of the site. This is readily apparent from the access track and neighbouring land.
31. The appellant has directed me to the views expressed in the officer's report relating to application CB/13/02315/FULL which states that 'There are no objections to the size and design of the unit which is to be set well back from Fordfield Road and will be largely screened by a hedge/woodland along the access track. The use of the site for a riding school within the Green Belt has been previously established, it is considered that these structures as proposed are suitable in design and scale, and reasonably required to the use of the land as a riding school.'
32. I am mindful that matters of visual impact involve matters of judgement, and opinions can vary over time. Moreover, decisions should be made according to policies and guidance that are in force when the decision is made. In this regard I note the previous inspector was of the opinion that any harm to the character and appearance of the area would be moderate. Having considered the views of both main parties and having seen the situation on site I do not disagree with the conclusion she reached.
33. Whilst acknowledging that the log cabin is sometimes used for staff facilities the appellant accepts that it is larger than is needed. Both main parties agree that a smaller building would have a lesser impact on the Green Belt and would result in less harm to the character and appearance of the area. It is also possible that staff facilities could be relocated elsewhere within the complex. However, whilst discussions could have taken place between the parties in this regard, I have no alternative proposals before me for consideration. Consequently, I have considered the appeal development on its own merits.
34. Accordingly, I conclude, on this main issue, that the development results in moderate harm to the character and appearance of the area. This is in conflict with Policy SP7, EE5 and HQ1 of the Central Bedfordshire Local Plan 2015 – 2035. These policies seek, amongst other matters, to restrict development outside settlements and recognise the intrinsic character and beauty of the countryside.

#### *Access to goods and services*

35. The main parties agree that the nearest settlements that provides goods and services are located several miles from the appeal site at Ampthill and Flitwick. They also accept that Flittabus operate only a very limited bus service along



Fordfield Road. Furthermore, the distance between the appeal site and the nearest centres, combined with the absence of footpaths and street lighting along the linking roads, means that there is no realistic alternative means of accessing the nearest settlements in a sustainable manner. As a result, the occupier of the log cabin is reliant on the use of a motor vehicle to access goods and services.

36. Ms Halls medical condition means that she chooses not to drive, and is reliant on friends to drive her to shops, doctors, dentists etc. I accept that living next to the riding school and livery business reduces the distance Ms Halls has to travel to her place of work. That said, friends would have to travel to the riding school to pick her up and take her to the local services and facilities. This would negate any benefit of living close to her place of work.
37. The provisions of the Development Plan, support the provision of new housing in existing settlements. However, the Council recognise that transport requirements will vary in urban and rural areas, as indicated in paragraph 109 of the Framework. Therefore, I accept that there will be situations where the use of the motor vehicle as a means of transport is unavoidable.
38. Whilst recognising the need for flexibility, when considering the transport requirements of developments in rural locations, I am not persuaded that the development contributes positively towards a reduction in the use of the motor vehicle as a means to access goods and services. That said, given the lack of realistic alternatives I give only limited weight to any harm that would arise as a result.
39. Accordingly, on this main issue, I conclude that the development is contrary to Policy HQ1 of the Central Bedfordshire Local Plan 2015 – 2035, which seeks, amongst other matters, proposals that are well connected to surrounding areas, providing safe, attractive and convenient routes that encourage travel by sustainable modes and meets the needs of all street users.

#### *Highway safety*

40. The amended plans submitted prior to the hearing indicate that vehicular access to the site will be retained in its current position. Evidence provided by the appellant supports her contention that she has a right of access to the appeal site using the current access position.
41. The Highway Authority has confirmed that they would have no objection to the access if it was to be retained in its current position. The Council has indicated that on this basis they do not wish to contest the fourth reason for refusal.
42. From the evidence before me and my observations on site I am satisfied that the existing access provides safe access to the development. Accordingly, I conclude, on this main issue, that the development accords with Policy T2 of the Central Bedfordshire Local Plan 2015 – 2035, which seeks, amongst other matters, safe access to the development.

#### *Other considerations*

43. Policy DC3 of the Central Bedfordshire Local Plan 2015 – 2035 requires supporting evidence to establish if there is a functional need for the development, that the activity has been established for at least three years,

- one of which has been profitable and the need for residential accommodation could not be satisfied by other existing accommodation.
44. The appellant asserts that she is known to the Council and substantive evidence was given in support of the 2013/2014 applications which was accepted by them and resulted in the grant of planning permission. In the absence of any significant change to the development or the management arrangements the appellant considered the submission of additional supporting information unnecessary. However, the appellant accepts that, in the absence of the supporting evidence, the development would not be in accordance with the development plan policy.
45. It is clear to me that the circumstances that existed in 2013 are not the same today, in particular the area of the appeal site has reduced. I am mindful that the appellant has carried out works which has had a positive impact on the appearance of the site. I also note that the appellant is of the view that the business can be conducted on a profitable basis. That said, in the absence of substantive evidence including a business plan illustrating what demand exists in the locality, and how that demand would be satisfied at the site, I cannot with any certainty accept that the business would be put on a strong financial footing.
46. I do recognise that the operation of the business by the third party, with the necessity to secure the return of the lease when personal circumstances allowed, does not necessarily provide the best example of how the business might be operated. I also accept that the intervention of the COVID epidemic may also have had some influence on the success of the business. Nonetheless it does demonstrate that evidence submitted in 2013/2014 does not provide a well-informed basis on which to make a decision some 10 years later.
47. I was informed by Ms Halls that the riding school and livery currently has 15 horses, which includes 6 used in connection with the riding school, 7 livery horses and 2 retired horses owned by the appellant. She intended to increase the number of horses in the future. The business has 2 full time staff, 5 part time staff and a maintenance worker, who work between 9 am and 3 pm.
48. The appellant asserts that it is necessary for someone to be present during the night to secure the health and welfare of the horses at times when other staff are not present. I was referred to the letter of support from the vet indicating that, given the number of horses at Brook Stables and the remote location it is essential that there is on-site living accommodation so that the horses can be adequately supervised by a suitably qualified individual.
49. During the time the business was sublet the security and welfare of the horses appeared to be the responsibility of the third party, albeit Ms Halls said that she also kept watch over the animals. She indicated that in recent years there had been one example of a horse that had colic, and one injury, requiring the attention of a vet. She accepted that such events were not regular. Ms Halls also confirmed that during the time that she had lived in the log cabin there had been no thefts from the site, albeit some tack had been stolen in the past.
50. At the time of my visit the site did not benefit from Closed Circuit Television coverage or mains electricity. Whilst technology is used in agricultural situations to assist with security, Ms Halls confirmed that there were no plans to adopt such an approach at Brook Stables at the present time. The potential



to employ someone to monitor the site when staff were not present was also ruled out by the appellant on cost grounds, however no evidence was produced to support that view.

51. Taking all of the above factors into consideration I find that there is insufficient substantive evidence to justify a full time on-site presence to ensure the welfare and security of the horses. Consequently, I do not accept that there is a functional need for the retention of the log cabin.
52. I have carefully considered whether the appellant has the means to find alternative accommodation close to the site. In this regard I acknowledge that the log cabin is in a convenient location and avoids the needs for the appellant to be transported to the riding school and livery stables. However, alternative management arrangements, combined with the use of technology, could be put in place to ensure the welfare and security of the business, without the need for a full time on-site presence. Furthermore, whilst noting that paragraph 5.49 of the appellant's statement indicates that she is reliant on only state benefits, she accepted at the hearing, that she also has income arising from the livery business. Therefore, in the absence of further financial information, I am unable to ascertain, with any certainty, whether relocating her home is a viable option.

### **Other Matters**

53. I understand that Ms Halls considers the Log Cabin to be her safe haven and that she has a number of health issues that require management. These health issues require regular visits to health facilities which she relies on friends and family for transport, as she chooses not to drive. While it would be more convenient for Ms Halls to be on site due to health issues, they would not prevent her visiting the site if she lived elsewhere.
54. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Whilst it is not clear whether the appellant's personal circumstances would be categorised as a protected characteristic referred to under the PSED I have nevertheless had regard to it. Such a duty does not necessarily override other considerations, but it is a factor to be weighed in the planning balance.
55. I also recognise that dismissal of the appeal would interfere with the appellant's rights under Article 1 and Article 8 of the First Protocol of the HR Act. Article 1 concerns enjoyment of possessions and Article 8 concerns respect for private and family life. These are qualified rights, whereby interference may be justified if it is in the public interest; the concept of proportionality is crucial.
56. I am satisfied that the legitimate aim of conforming with planning policy and safeguarding the Green Belt from inappropriate development cannot be achieved by any means which are less interfering with the appellant's rights under Articles 1 and 8 of the HR Act. The interference with enjoyment of possessions, home and private life is proportionate and necessary in the circumstances and would not result in a violation of her rights.

## **Planning Balance and Conclusion**

57. The appeal development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. The proposal also gives rise to an appreciable level of harm to the openness of the area and would harm the purpose of the Green Belt to assist in safeguarding the countryside from encroachment. In accordance with the Framework, I give these harms substantial weight. I find that the development results in moderate harm to the character and appearance of the area to which I give moderate weight. The absence of sustainable access to goods and services would result in limited harm to which I give limited weight. Limited weight has been given to the material considerations cited in support of the proposed development, and I conclude that they do not clearly outweigh the harm I have identified. Consequently, the very special circumstances to justify the proposal do not exist and there would therefore be conflict with Policy SP4 of the Central Bedfordshire Local Plan 2015 – 2035 and the Framework.
58. The proposal would be in conflict with the development plan as a whole and there are no material considerations that indicate a decision other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

*J Gunn*

INSPECTOR

## APPEARANCES

### **FOR THE LOCAL PLANNING AUTHORITY**

Miss Eilis Edmonds

Planning Officer, Central  
Bedfordshire Council

Ms Rebecca Rousell

Principal Enforcement Officer,  
Central Bedfordshire Council

### **FOR THE APPELLANT**

Mr Dean Wishart

CC Town Planning Limited

Ms Jean Halls

Appellant

Miss Georgina Venn

Friend of Appellant