



Appeal Decision

Hearing held on 14 November 2024

Site visit made on 14 November 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/C4615/W/24/3340808

Potters Farm, Illey Lane, Halesowen B62 0HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr George Dhillon against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P23/0064.
 - The development proposed is the erection of a rural workers dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Dudley Metropolitan Borough Council against Mr George Dhillon. This is the subject of a separate Decision.

Preliminary Matters

3. The application form describes the development as 'erection of rural worker's dwelling.' The Council considered that the proposal could not fall under this definition, and so amended this at validation stage to 'erection of one new dwelling'. I have used the description as sought by the appellant, and address this matter further below.
4. A 2017 permission for the dog breeding business¹ includes a condition requiring a maximum of 30 dogs to be kept at any one time. Although the appellant has a licence for 80 dogs, licencing falls under separate legislation to the planning system. It is unnecessary for me to debate this increase, or any structures and land use which the Council suggest are unauthorised. However, as a 'best case scenario' for the appellant, I have based my determination on the employment needs resulting from looking after 80 dogs. This does not indicate that a future decision maker would be similarly bound.

Main Issues

5. The main issues are:
 - whether the development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework ('the Framework') (2023) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;

¹ P17/1198 Change of use from stabling/equestrian (agricultural) to dog breeding (Sui Generis)

- the effect of the proposal on the character and appearance of the area, with particular regard to the Area of High Historic Landscape Value;
- the effect of the proposal upon any archaeological remains;
- whether, having regard to national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

6. Potters Farm consists of approximately 5.2 ha of land within the Green Belt. It comprises a substantial private dwelling, various buildings associated with the dog breeding business, and pasture fields. The proposal is for a new detached 2 storey dwelling, for employees of the breeding business.

Inappropriate development in the Green Belt

7. The Framework paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 154 and 155 identify that the construction of new buildings is inappropriate in the Green Belt, subject to several exceptions. Policy S23 of the Dudley Borough Development Strategy (DBDS) reiterates that development will not be permitted within it except for circumstances set out in the Framework. No Framework exceptions would apply to the proposed new dwelling, with the appellant unable to identify otherwise. It would thus be inappropriate development in the Green Belt.

Openness

8. The Framework paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has spatial and visual aspects, and is a matter of planning judgement. The Green Belt openness is clearly evident around and across the appeal site and the wider area. The dwelling would create additional volumetric massing in spatial terms. Visually, it would be clearly visible from the Public Right of Way running along the south edge of the same field, and from local lanes. Altogether, I find that the proposed dwelling would cause significant harm to the openness of the Green Belt.
9. Furthermore, the Framework paragraph 143 identifies 5 essential purposes of the Green Belt. The site falls within a wedge of Green Belt between the outskirts of Dudley and Birmingham. The new dwelling would thus conflict with the aims of safeguarding the countryside from encroachment, checking the unrestricted sprawl of large built-up areas, and preventing neighbouring towns merging into one another. The proposal would therefore fail to accord with paragraph 143.
10. Overall, it would result in harmful inappropriate development in the Green Belt. It would harm the openness of the Green Belt and conflict with its purposes. It would therefore conflict with the DBDS Policy S23, and Section 13 of the Framework.

Character and Appearance

11. The site is located within the Illey and Lapal Area of High Historic Landscape Value (AHHLV), an important heritage feature. The Historic Environment Supplementary Planning Document (SPD) identifies that this designation recognises the quality of the wider landscape, and its historic, communal, ecological, and aesthetic values. The DBDS Policy S13 requires developments to protect and enhance views into, from, or within AHHLVs, and resists development which would be detrimental to the character, quality, and historic integrity of those landscapes.
12. The Council's evidence identifies that the Illey and Lapal AHHLV is inseparably part of the North Worcestershire countryside, with its significance being as a key historic landscape, and in forming a foreground to the North Worcestershire hills which terminate views to the south and west. It is of considerable scenic value and contains a complex mix of landscape elements. As such, the appeal site field contributes to this significance as part of the wider area. Furthermore, 1750 tithe mapping suggests this field has retained its original shape and position, including the hedgerow adjacent to the proposed dwelling.
13. The appellant's evidence contains no specific information relating to the proposal's impact upon the AHHLV, as required by the DBDS Policy S13, and the Framework paragraph 200. They suggest the dwelling would be viewed within the context of the other site buildings, and would have a deliberately low key and rural appearance. However, I do not agree it would be perceived as such. It would be on the most elevated part of the field, and would be clearly visible. The existing buildings give a historic indication of how the Illey hamlet developed over time. The proposed set back location is not typical of this local character, and further harm would also result from the field being bisected by the long driveway.
14. The proposed dwelling would therefore overall create an incongruous and unsympathetic addition within this highly sensitive location. It would fail to preserve the landscape character, and affect the ability to appreciate the significance of its setting. This would be less than substantial harm to the significance of a designated heritage asset, to which the Framework paragraphs 205 and 208 require that I give great weight, and weigh against the public benefits of the proposal.
15. The Framework seeks in general to significantly boost the supply of homes, and gives support for the development of windfall sites. An additional house is therefore a public benefit of the proposal, although it would only be a small-scale contribution to the housing supply. There would also be small social and economic benefits from construction including from potentially locally sourced materials, and from the local expenditure and demand for services by the residents. I give these benefits minor weight cumulatively.
16. The appellant suggests that the dwelling is an essential requirement for the continued successful running of the business. However, from the very limited evidence before me, it is clear that it is successful, and has grown substantially in the past few years. The indication is only that future business growth would be inhibited without the new dwelling, rather than a specific impact to its current form. The new dwelling would therefore allow for business expansion

including additional local jobs and spending, a minor public economic benefit to which I give minor weight.

17. Overall, I find that these public benefits would not outweigh the harm which would be caused to the AHHLV. As such, the proposal would be contrary to the Black Country Core Strategy Policies CSP4, ENV2, and ENV3, which together require development to demonstrate a clear understanding of the historic character and local distinctiveness of the area, to respond and make a positive contribution to the identity of each place, and to preserve and enhance local character and those aspects of the historic environment and its setting which are recognised as being of special quality.
18. It would also conflict with the DBDS Policies S6, S7, S8, and S13. Together and amongst other matters, these seek for development proposals to achieve the highest standards of design, reinforce and enhance the locally distinctive character, quality, and historic integrity of the landscape, and to assess design solutions against the historic landscape character evidence. The proposal would further conflict with the Historic Environment SPD, and with the Framework paragraphs 200, 205, and 208.

Archaeology

19. The appeal site lies within a field identified as a Prehistoric-AD43 site (Historic Environment Record 12642), due to the presence of a penannular ditch that the Council suggests can be seen on arial imagery. The appellant presented no information relating to archaeological remains within this non-designated Heritage Asset. It is not appropriate to delay consideration of this matter to conditions stage.
20. The Framework Paragraphs 200 and 209 require at least a desk-based assessment, and that the effect on the significance of a non-designated heritage asset should be taken into account in determining an application. The DBDS Policy S15 similarly requires adequate information to be submitted in order to allow the full consideration of the proposal's impact on archaeological remains. In the absence of substantive evidence of the proposal's potential impact, I therefore cannot conclude that no harm would be caused to the significance of this site. The proposal would therefore conflict with Policy S15 and with the Framework.

Essential Need for a Rural Worker

21. The DBDS Policy S24 requires various circumstances to be demonstrated in order to allow new agricultural, forestry, horticulture, or other essential rural workers' dwellings. These include that there is a clearly established existing functional need relating to a worker who is primarily employed in those occupations.
22. The proposed dwelling would be physically separate from a settlement, and thus I define it as an isolated dwelling in the countryside, notwithstanding its location somewhat proximate to other buildings on the site. the Framework Paragraph 84 restricts the development of such isolated homes in the countryside unless specific circumstances apply. The only listed circumstance which could be relevant to the appeal proposal is 84(a) whereby "*there is an essential need for a rural worker... to live permanently at or near their place of work in the countryside.*"

23. The Planning Practice Guidance (PPG) identifies considerations that it may be relevant to take into account when applying paragraph 84(a)². There should be evidence that this essential need is required *"to ensure the effective operation of an agricultural, forestry, or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products)."*
24. Dog breeding is not an agricultural activity. The appellant confirmed that they have never farmed the land themselves, although a neighbouring farmer takes hay from it. The former stables and menage are all now associated with the breeding business, as a Sui Generis use approved in 2017.
25. The appellant explained in some detail how their business operates, and the day to day routine. The fields and menage are used daily for dog exercise, which is necessary for their welfare. However, the business is not based on the productive use of the land. I do not find the use of the land for dog exercise to fall within the PPG definition of a land-based rural enterprise similar to agriculture or forestry, or the Policy S24 description of an essential rural worker. It therefore follows that the dwelling cannot be for the benefit of a rural worker, as sought.
26. Notwithstanding this important point, it is necessary to consider the appellant's case further as very special circumstances may still apply. The business issues raised focused on the lack of adequate on-site domestic and sleeping facilities for their employees. This is required for overnight dog care, especially in relation to the necessary round the clock care for the numerous puppy litters, for weeks after their birth. The kennel manager also requires better accommodation than the on-site caravan they have lived in for several years.
27. However, although the appellant's written evidence refers solely to the proposed dwelling being for the kennel manager, the picture presented verbally at the hearing was more complex. It would be used as the permanent residence for 3 staff members, including the kennel manager who predominantly works daytimes. The other staff work daytimes but also often care for dogs overnight, and our discussion acknowledged that the proposed dwelling's garage would very likely house dogs overnight for that purpose. On the evidence before me, I find that part of the need for the dwelling is for dog breeding activities to take place within it. As such, there is a lack of clarity as whether it would be a dwelling, or a sui generis use.
28. Finally, the DBS Policy S24 requires demonstration that the need for the dwelling could not be met by an existing dwelling within the planning unit or in the local area; that a dwelling which has served the holding has not recently been severed off from the holding; and that the proposed dwelling is of a size and type commensurate with its established functional requirement. The PPG similarly suggests an assessment of alternatives such as improvements to existing accommodation on the site.
29. I accept that some alternatives have been considered, including sending dogs out to puppy nannies, using a nearby hotel which allows dogs, and attempting to purchase a small nearby dwelling. The appellant's other veterinary practice

² Paragraph: 010 Reference ID: 67-010-20190722 Revision date: 22 07 2019

business cannot provide any additional accommodation. The appellant considers their own dwellinghouse part of the site to be unavailable due to roaming guard dogs, and a desire to keep the business distinct from daily family life.

30. However, no detailed justification or masterplanning was presented to demonstrate in any certainty that no other, less harmful, overnight accommodation options or dwelling locations are available or achievable within or near to the site.
31. Overall, I find that the business is not a land-based rural enterprise, the proposal would not be a rural worker's dwelling, and insufficient evidence of alternatives have been presented. The proposal would therefore conflict with the DBDS Policy S24, and with the Framework paragraph 84.

Other Considerations

32. The appellant also referred in more general terms to meeting specific housing needs of the employees for whom the dwelling is intended. While I am sympathetic to the appellant's efforts to assist in this regard, I give this minimal weight in favour due to the lack of detailed evidence before me.

Planning Balance and Conclusion

33. The proposed development would reduce the openness of the Green Belt, and would conflict with the purposes of including land within it. It would be inappropriate development in the Green Belt, which is harmful by definition, and to which I attach substantial weight as required by the Framework paragraph 153. It would also cause harm to the designated heritage asset of its landscape setting, to which I give great weight, alongside potential harm to archaeological remains. It would be an isolated dwelling in the countryside. The development would therefore be in conflict with numerous development plan policies and with the Framework.
34. Against the totality of the harm I have identified, I have placed only minor or minimal weight on the other considerations advanced by the appellant in support. These matters are therefore not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
35. In conclusion therefore, the proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR