

**5c 3/11/1716/FP – Use of land for the siting of a residential mobile home in the form of a log cabin for a temporary 3 year period for occupation by a stockman at Dalmonds Wood Farm, Mangrove Lane, Brickendon, Hertford, Hertfordshire, SG13 8QJ for Mr Eamon Bourke**

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**Date of Receipt:** 27.09.2011

**Type:** Full – Major

**Parish:** BRICKENDON LIBERTY

**Ward:** HERTFORD HEATH

**RECOMMENDATION:**

That planning permission be **REFUSED** for the following reasons:

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan wherein permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. The local planning authority is not satisfied that the 'very special circumstances' put forward in this case would clearly outweigh the harm caused by the development and the proposal would therefore be contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007 and to national planning guidance in PPG2: Green Belts
2. The Local Planning Authority is not satisfied, from the information submitted, that the residential needs of the applicant cannot be met by existing dwellings on the adjacent Elbow Lane Farm site or elsewhere nearby; nor that clear evidence has been submitted to show that the enterprise is on a sound financial basis. The proposal therefore fails to meet the tests applied in PPS7 'Sustainable Development in Rural Areas', and would be contrary to the national guidance contained in that statement.
3. The proposed development would result in an increased sprawl of development in and around Elbow Lane Farm which, by reason of the size and scale, would be harmful to the openness and rural character of the surrounding Green Belt, contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007 and national Planning Policy Guidance 2: Green Belts

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**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. It is located within the Metropolitan Green Belt and comprises ancient semi-natural woodland registered as a County Wildlife Site (no. 71/018) to the south of Elbow Lane Farm. There is also a separate 1.6 ha coniferous plantation to the east of Dalmonds Wood, adjacent to the main access track to Elbow Lane Equestrian Centre. The coniferous plantation is not part of the Wildlife site.
- 1.2 Prior to being purchased as part of the wider Elbow Lane Farm holding, all the land was owned by a pharmaceutical company. The Bourke family purchased the holding in 2002 and established a successful Equestrian Centre, which now includes residential accommodation provided in two dwellings in addition to groom's accommodation within a converted building.
- 1.3 In 2008 the family sought to restore Dalmonds Wood and was advised that running pigs within the woodland would be a beneficial means by which to clear the undergrowth. The applicants indicate that there are now 40 sows on the site which will produce over 600 pigs a year and these are marketed and sold locally to farm shops, restaurants, pubs and private individuals. No accounts or other information, have however been produced with the application to indicate the level of sales from the site since 2008.
- 1.4 Notwithstanding that, the applicant states that the enterprise has become a serious business venture such that he has assumed full responsibility for managing it and, in April 2011, the southern one-third of the Elbow Lane Farm holding was transferred to him for the pig rearing business.
- 1.5 At the same time, the Council determined an application for prior approval relating to the construction of a barn in the woodland to provide covered facilities for the pigs. It was determined that the construction of the barn represented agricultural 'permitted development' for which no planning permission was required.
- 1.6 This current application seeks temporary permission for the erection of a two-bedroom log cabin on land to the north of the woodland. The cabin would be occupied for a period of up to three years by the applicant for the purposes of close supervision and monitoring of the herd of pigs in the woods.
- 1.7 The applicant states that the cabin would allow continual monitoring of the pigs by providing accommodation for a full-time worker solely

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responsible for the welfare of the pigs. The presence of a full-time worker at the site is also expected to improve security in the woods.

- 1.8 The application has been submitted with a business plan indicating that, in their view, the proposals are planned on a sound financial basis.

### **2.0 Site History:**

- 2.1 Elbow Lane Farm has a long planning history, with many of the applications being determined by the committee. As the site is created by severance from Elbow Lane Farm, the history of the following applications at the site is considered to be of relevance to this application, as they relate wholly or partly to the property now known as Breaffy Lodge:

- 3/02/3645/FP – Change of use of land & buildings from commercial to equestrian & agricultural, construction of new stabling, equestrian managers house, manège, horsebox & car parking – Approved June 2003
- 3/05/0568/FP – Resiting of consented manager's house and substitution of existing equestrian tie with an agricultural tie – Withdrawn
- 3/05/2532/FP – Construction of cattle compound and loading area and re-siting of consented manager's house – Approved March 2006
- 3/06/1005/FP – Alterations to design of Manager's House & addition of basement (approved under consent Refs. 3/02/2645/FP and 3/05/2352/FP) – Approved August 2006
- 3/07/1072/FP – Single storey outbuilding for machinery storage, temporary animal housing & kennel – Approved August 2007

- 2.2 This particular site, which is now solely in the applicant's ownership under the name Dalmonds Wood Farm, only has the following history:

- 3/11/0575/PA – Farm building to house pigs – Prior approval not required April 2011

### **3.0 Consultation Responses:**

- 3.1 Herts Biological Records Centre have raised no objection to the development, but recommend that all services are routed along the access road rather than through the woodland
- 3.2 County Highways have no objection, commenting that the site is accessed from a private road, appropriate parking is provided and traffic

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generation is unlikely to be significant.

3.3 Natural England has no objection to the proposal, provided that it is carried out in accordance with the submitted plans. Any opportunity to incorporate biodiversity enhancements such as the inclusion of bird boxes or bat roosts would be welcomed.

3.4 Herts & Middlesex Wildlife Trust has no objection to the development on wildlife grounds, but note that the woodland is a designated Wildlife Site. A condition is therefore recommended to ensure no impact results from the development.

#### **4.0 Parish Council Representations:**

4.1 Brickendon Liberty Parish Council states that they have no objection to the proposal, provided that it is only for a temporary period of three years.

#### **5.0 Other Representations:**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 Three letters of objection have been received; two from local residents and one from the Broxbourne Woods Area Conservation Society. Within these objections, material planning issues raised are:

- That the site is in the Green Belt
- That it exists in proximity to a Site of Special Scientific Interest
- That previous applications at the site have resulted in a repeatedly enlarged house
- That the business is not economically viable
- That the application may set a precedent for buying Green Belt and starting an agricultural business to justify a dwelling

5.3 They have also raised concerns about the name of the site, use of the woodland for raising pigs and future applications for the site, but these are not material to the current planning application.

#### **6.0 Policy:**

6.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1      Green Belt

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GBC6	Occupancy Conditions
ENV1	Design and Environmental Quality
ENV14	Local (wildlife) Sites

6.2 In addition, the following National policy guidance is relevant:

Planning Policy Guidance 2: Green Belts  
Planning Policy Statement 7: Sustainable Development in Rural Areas  
(Annexe A – Agricultural, Forestry and Other Occupational Dwellings)  
Planning Policy Statement 9: Biodiversity.

### **7.0 Considerations:**

7.1 The determining issues in this case relate to the principle of the development in the Green Belt; its impact on the openness and character of the surrounding area; and whether the agricultural need for the accommodation constitutes the very special circumstances required to justify the development.

#### Principle of the development

7.2 The site lies within the Metropolitan Green Belt wherein the erection of new dwellings constitutes inappropriate development in accordance with policy GBC1 of the Local Plan and guidance in PPG2. Accordingly it is for the applicant to show that 'very special circumstances' exist to justify the development. These circumstances must be shown to clearly outweigh the harm caused to the Green Belt by inappropriateness, and any other harm.

7.3 In this case, the applicant accepts that the proposal is inappropriate and that there would be harm caused to the Green Belt by reason of inappropriateness and also by loss of openness. However, it is argued that the agricultural need for the accommodation (which they consider is in accordance with the tests in PPS7) constitutes 'very special circumstances' which outweigh the policy presumption against the development and the harm caused to the Green Belt.

#### Need for the development

7.4 National guidance in PPS7 makes clear that isolated new houses in the countryside require special justification (in the Green Belt of course the test is even higher – as set out above). The guidance goes on to say that one of the few circumstances in which residential development may be justified in the countryside is when accommodation is required to enable agricultural full-time workers to live at, or in the immediate vicinity of their place of work. In the Green Belt of course such justification must also

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'clearly outweigh' any harm to the Green Belt that would result from the development.

- 7.5 Annex A to PPS7 states that local planning authorities should scrutinise such proposals thoroughly and in particular assess whether the agricultural business that is intended to be supported by the accommodation is reasonably likely to materialise and is capable of being sustained. It sets out tests against which such proposals should be considered. (as set out later in this report).
- 7.6 The main issues for consideration in this application are therefore whether the proposed dwelling is justified, based on agricultural need, and whether it complies with the relevant tests of Annex A of PPS7. Furthermore, if those tests are met, then consideration needs to be given as to whether that need 'clearly outweighs' any harm to the Green Belt such as to constitute the 'very special circumstances' required to justify inappropriate development.
- 7.7 The tests set out at Annex 3 of PPS7 state that a new agricultural workers dwelling must be 'essential' to support the farming activity. There should be clear evidence of a firm intention and ability to develop the enterprise concerned and there must be a *functional* need for the dwelling.
- 7.8 A *functional* need is established where it is essential, for the proper functioning of the enterprise, for one or more workers to be readily available on the site at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:
- (i) in case animals or agricultural processes require essential care at short notice;
  - (ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or livestock.
- 7.9 The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one.
- 7.10 In addition to the *functional* test, proposals for new dwellings should only be permitted where there is 'clear evidence that the enterprise has been planned on a sound financial basis; and that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area.
- 7.11 In this case, Officers are satisfied that there is a functional need for one full time worker to be present on the site at most times and in particular

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when the pigs are farrowing, which the applicant indicates can occur more frequently than once a week. The applicant's own records for births at the site indicate that the most common time is between 10pm and 1am, and that a member of staff is required during these times. The requirements of tending to farrowing pigs at such times, and the other requirements of the pigs, do not appear to be easily met through part-time employees.

- 7.12 Until recently (April 2011) this essential monitoring was achieved by members of the Bourke family living at the adjoining Elbow Lane Farm. However, the family have chosen to sub-divide this particular part of the holding away from the equestrian enterprise and now state that they cannot provide suitable supervision of the livestock from the dwellings situated at the adjoining Farm (although they remain in the same family ownership as previously). The applicant states that he lives in Hertford, some 15 minutes away from the site and that this is not appropriate for the proper monitoring of the site.
- 7.13 In respect of the other tests, the applicant has submitted a Farm Business Plan which indicates that the enterprise should be able to generate an annual turnover of £67,000 and a net profit of £26,000 a year, (before labour). The information submitted is very brief but is stated to be based on 'extrapolating prices and returns currently achieved'. However, no accounts have been provided for the business over the last few years and no details of labour cost have been included. Officers therefore consider that there is currently insufficient information in respect of the financial viability of the business in order to satisfy the financial test in PPS7.
- 7.14 Officers also remain unconvinced by the need for the dwelling given the alternatives that are available nearby and that have apparently been used successfully until relatively recently. The applicant's family occupies two houses on the neighbouring Elbow Lane Farm site – the Farmhouse and Breaffy Lodge. Breaffy Lodge, immediately to the north of the application site, was approved for construction in 2006 as a four-bedroom house with an office, basement and substantial garage. The basement was shown, on the approved plans, to provide ancillary facilities for the equestrian centre such as storage and a training room where teaching and equestrian films could be shown.
- 7.15 The farmhouse, accessed from Elbow Lane to the north, was granted permission earlier this year for extensions and renovations resulting in a five bedroom house with several ground floor rooms and a detached double garage with office space above.
- 7.16 The applicant has stated that his parents and sister and her family

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occupy these properties, and officers accept this. However, there is no explanation as to why the applicant cannot create living space (or overnight accommodation) within one of the dwellings. Although the circumstances may be less desirable than the occupation of a separate dwelling, officers are not satisfied that this would not be achievable and it is considered that, in a Green Belt location significant weight cannot be attached to these circumstances.

- 7.17 Paragraph 5 of Annex A states that the local planning authority should, where appropriate, investigate the history of a holding to establish, for example, whether any dwellings have recently been sold separately from the farmland concerned. In this instance, the farmland concerned has been sold separately from the main site of Elbow Lane Farm, which has two dwellings on it, one of which (Breaffy Lodge) was specifically granted permission by the Council to provide accommodation for a site worker.
- 7.18 The applicant has also stated that the development would improve security for the site. However, no evidence has been provided that this is an existing problem or that it can only be addressed in this way. Paragraph 6 of Annex A to PPS7 (as mentioned previously) states that security issues on their own are not sufficient to justify the grant of permission for a new agricultural dwelling.

#### Impact on the Green Belt

- 7.19 Officers are also concerned about the scale of the development and the encroachment of open countryside. The cabin proposed would have two bedrooms, a bathroom, a separate shower room, kitchen, farm office and a large lounge and dining area of around 30m<sup>2</sup>. In addition, the cabin would include a raised veranda area. Officers consider that the proposal significantly exceeds the functional need for a single worker at the site.
- 7.20 Although the inclusion of a separate office and shower could be argued as necessary for an enterprise employing several full-time workers, the overall scale of the building appears excessive. Even allowing for existing landscaping, the application will extend the sprawl of development across the site. There is a public right of way (RUPP24) to the east of the site – the route of Ermine Street, and even though there are trees between the right of way and the site, the building would still be visible as the density of growth is not so great that it would completely screen the building from view. The cabin would also be visible from the access road serving Elbow Lane Farm. The building would therefore be a prominent feature in this Green Belt location and there would therefore be an appreciable and harmful loss of openness to the detriment of the rural character and appearance of the surrounding area.



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7.21 For the reasons set out above, Officers are not satisfied that the 'very special circumstances' put forward by the applicant in this case are sufficient to 'clearly outweigh' this harm as required by PPG2 and policy GBC1 of the Local Plan.

#### Other Matters

7.22 Natural England has suggested that, if consent were to be granted for the development, that biodiversity enhancements be included in the proposal. Officers consider that the inclusion of bird boxes could be achieved without materially affecting the cost of the development. A bat roost will typically take several months, if not years, to be used by bats, and it is not considered justified to include one in a temporary scheme.

7.23 The provision of services is not covered under planning legislation, but the applicant's attention would be drawn to the recommendation of the HBRC in the event that permission was to be granted.

7.24 A neighbour has noted that there is a Site of Special Scientific Interest near to the site. This site is approximately 1km to the north of a Wormley Hoddesdon Park Wood North. None of the statutory consultees have raised any concerns about the proximity of the site to this SSSI.

#### **8.0 Conclusion:**

8.1 The site is located within the Metropolitan Green Belt where new residential development constitutes inappropriate development. The proposal would result in harm to the Green Belt by reason of inappropriateness and also by its impact on the open rural character of the surrounding area.

8.2 One of the rare exceptions to Green Belt policy may be where there is a need for agricultural workers accommodation and that this need is of such importance that it clearly outweighs the harm caused to the Green Belt.

8.3 However, whilst officers accept that there may be a functional need for accommodation to provide for the monitoring of livestock for this business, they are not satisfied, from the information submitted, that the financial test has been met in this case; nor that any such need cannot be met by alternative accommodation at Elbow Lane Farm or elsewhere nearby. In such circumstances, Officers cannot conclude that the proposal provides the 'very special circumstances' that would be required to justify this development in the Green Belt.

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8.4 For these reasons it is considered that the proposed development would be inappropriate development in the Green Belt, contrary to policy GBC1 and the requirements of national guidance in PPG2 and PPS7. It is therefore recommended that planning permission be refused for the reasons set out at the head of this report.