

**3/12/0355/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 Eamon Bourke**

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**Date of Receipt:** 05.03.2012

**Type:** Full – Major

**Parish:** BRICKENDON LIBERTY

**Ward:** HERTFORD HEATH

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:

1. The building hereby permitted shall be removed on or before 30th June 2015, and the land shall be reinstated to its former condition or in accordance with details to be submitted and approved in writing by the Local Planning Authority.

Reason: The development is a temporary expedient only having regard to the specific circumstances of the application.

2. Approved plans (2E103) 570SP01A and 570 LP2A
3. Agricultural occupancy (5P056)
4. No materials, debris, pollutants, vehicles or machinery associated with this development shall be stored or used within the adjacent Wildlife Site (Ref: 71/018, Dalmond's Wood). Development shall not begin on site until appropriate measures to protect the habitat, and the trees and their roots within the adjacent Wildlife Site have been submitted to and agreed in writing with the Local Planning Authority. These measures shall thereafter be maintained in accordance with the approved details.

Reason: To prevent any degradation of the Wildlife site (developments adjacent to trees, woodlands and hedgerows can affect their integrity by causing damage to trees or tree roots. Damage to roots affects the health, growth, life expectancy and safety of the rest of the tree. The effects of this damage may only be evident several years later), and to comply with Policy ENV14 of the East Herts Local Plan Second Review April 2007.

**Directives:**

1. Other legislation (01OL1)

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007 and in particular policies GBC1, GBC1, ENV1 and ENV16) and the National Planning Policy Framework. The balance of the considerations having regard to those policies and the 'very special circumstances' shown to exist in this instance is that permission should be granted.

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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. Abbreviated management accounts for the period from April 2011 to 31 December 2011 have been produced to indicate the level of sales from the site since April 2011, together with additional information from customers of the business verifying its establishment.

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- 1.4 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 Members may recall that temporary planning permission was refused in December 2011 (ref: 3/11/1716/FP) for the erection of a two-bedroom log cabin at the site 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.
- 1.7 This current application is a resubmission of the above application with

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additional supporting evidence which seeks to overcome the objections raised previously. 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.

- 1.8 The applicant states that the cabin would allow continual monitoring of the pigs by providing accommodation for a full-time worker solely 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.
- 1.9 The amended application has now been submitted with financial details to support the applicants view that the business can become profitable over time.

### **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 and buildings from commercial to equestrian and agricultural, construction of new stabling, equestrian managers house, manège, horsebox and 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 and 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 and kennel – Approved August 2007.

2.2 The application site, which is now solely in the applicant's ownership under the name Dalmonds Wood Farm, has the following history:

- 3/11/0575/PA – Farm building to house pigs – Prior approval not required April 2011.
- 3/11/1716/FP – Use of land for the siting of a residential mobile

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home in the form of a log cabin for a temporary 3 year period for occupation by a stockman – Refused December 2011.

### **3.0 Consultation Responses**

- 3.1 Natural England have stated that their response to the previous application applies in this instance as well. In their original letter they stated that they had 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.
- 3.2 The 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
- 3.3 County Highways have no objection, commenting that the site is accessed from a private road, appropriate parking is provided and traffic generation is unlikely to be significant
- 3.4 Herts and Middlesex Wildlife Trust has no objection to the development on wildlife grounds, but note that the woodland is a designated Wildlife Site, and there are three other designated Wildlife Sites in the area. A condition is therefore recommended to ensure no impact results from the development.
- 3.5 The Broxbourne and Wormley Woods Area Conservation Society has objected on the grounds that the development could set a precedent for further development in the area surrounding Broxbourne Woods

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

- 4.1 Brickendon Liberty Parish Council has no objection to this application.

### **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 representation have been received which can be summarised as follows:
- That the development would be inappropriate in the Green Belt.
  - That it exists in proximity to a Site of Special Scientific Interest.

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- 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 expanding agricultural enterprises to justify a dwelling.
- That the combined impact of this proposed development and a separate application for holiday cabins at Elbow Lane Farm would result in unacceptable sprawl on this site.
- That there are no very special circumstances present to justify the development.

5.3 They have also raised concerns about the name of the site and the use of the woodland for raising pigs, 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
GBC6	Occupancy Conditions
ENV1	Design and Environmental Quality
ENV14	Local (wildlife) Sites

6.2 Following the refusal of permission in 2011, the Government has issued revised national planning guidance in the National Planning Policy Framework (NPPF). This document supersedes previous national policy guidance and statements referred to in the report on that earlier application.

#### **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 there is an agricultural need for the accommodation that constitutes the 'very special circumstances' required to justify the development.

##### Principle of 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 the NPPF.

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 constitutes a material consideration of such weight that it outweighs the policy presumption against the development and the harm caused to the Green Belt. It therefore constitutes 'very special circumstances' for permitting the proposal.

Need for the development

- 7.4 Since the previous application was determined, all relevant national planning guidance on this matter has been replaced with the National Planning Policy Framework (NPPF). With regard to agricultural workers' dwellings, the NPPF states that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances such as an 'essential need for a rural worker to live permanently at or near their place of work in the countryside' (paragraph 55). The financial, functional and other tests set out in detail in the former Planning Policy Statement 7 have not been adopted in the NPPF. It therefore falls to the Local Planning Authority to determine whether there is an 'essential need', and if so whether that need 'clearly outweighs' any harm to the Green Belt such as to constitute the 'very special circumstances' required to justify inappropriate development.
- 7.11 In this case, taking the earlier reference of PPS7 (albeit now revoked), Officers are satisfied from evidence submitted that there is a functional need for one full time worker to be present on the site at most times and in particular 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 This essential monitoring was initially carried out 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. Further support for this position is provided in the form of a veterinary surgeon's letter, recommending that accommodation be provided within close proximity of the woods.

- 7.13 In considering the previous applications, officers were concerned that the accommodation at the existing dwellings on Elbow Lane Farm did not appear to have been considered. In response, information has been provided on the present occupation of these two properties. The applicant attests that Breaffy Lodge is currently occupied by four adults. The farmhouse is occupied by two adults and four children. Given the needs of the occupants, providing suitable accommodation for the applicant would be likely to require further expansion of the properties. Furthermore, the properties have been assessed as being unsuitable for providing the necessary level of monitoring of the pigs because of their distance from the woods.
- 7.14 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. No information has been submitted to indicate that there is a particular security concern at this site.
- 7.15 The applicant has however suggested that bio-security concerns (i.e. cross-contamination of the pigs in the woods and the horses at the equestrian centre) are relevant in this case. This has been endorsed by the veterinary surgeon, who notes a recommendation of 48 hours between contact with the pigs and any other animals. There is a substantial communal element to the site, with access shared with the Elbow Lane Farm site, as well as the applicant having family resident on that site. It is therefore inevitable that there would be people moving back and forth between the sites. And it is therefore considered necessary for a decontamination area to be provided close to the pigs, and this would be provided within the cabin.
- 7.16 The raising of pigs at the site now operates separately from Elbow Lane Farm. The ongoing requirements of the business, particularly if it is to expand, require the presence of continual monitoring by a full-time worker. The financial information provided by the applicant indicates that the business made a loss between April and December of last year. This does not include the initial investment in the barn, feed silo and the pigs themselves. The applicant contends that, with a full-time worker



present on site and the benefits gained from the approved barn in the woods, income is expected to increase significantly. The applicant acknowledges that the expected profit of £26,000 per year was based on having 40 breeding sows on site, whereas at present there are 32. This will mean that profits will be less than expected until there are 40 sows on site.

- 7.17 The need for a full-time worker was accepted in the consideration of the last application, and officers consider that the case has been further strengthened by the additional information provided by the applicant.
- 7.18 The business is relatively new, and has not yet had time to become fully established. The chances of the business becoming successful are limited by the level of care that can presently be provided in the absence of a full-time worker resident on site.
- 7.19 Officers consider that a sufficiently convincing case has now been put forward to establish that there are 'very special circumstances' to warrant the grant of a temporary permission for three years on the site. This will allow the applicant to establish whether the business is viable in the long term. At the end of the three years, the applicant will either have to remove the cabin from the site, or seek permission to retain it and provide further justifications, related to the functional need, viability of the business and lack of alternative accommodation. Such an application would then need to be determined in line with the relevant policies in place at that time.

#### Impact on the Green Belt

- 7.20 Officers were previously concerned about the impact of the proposed cabin on the openness of the Green Belt. The applicant has noted that a cabin of similar scale was granted permission on appeal in Wyddial. The decision is noted, but that site lies within the Rural Area Beyond the Green Belt and the differences between the sites mean that little weight can be given to that other decision.
- 7.21 The cabin would be visible in the surrounding area. Although screened by the woods from the south, and viewed against the backdrop of the woods from the north, it would still be a prominent feature of the site. This would be particularly true when viewed from the east, as a public right of way (RUP24, the former route of Ermine Street) runs parallel to the access track serving the site and Elbow Lane Farm. Although there is some coverage from the trees between the right of way and track, this is not so dense as to provide significant screening of the site.

7.22 Officers' views on this matter have not changed since the consideration of the previous application. However, given the additional information provided by the applicant to establish the lack of alternatives, the need for the cabin and the viability of the business, Officers now consider that the harm to the Green Belt is outweighed by the benefit gained from the development 'Very special circumstances' can therefore be said to exist in this case for permitting the development.

Other Matters

7.23 There is a separate application for holiday cabins under consideration elsewhere on the Dalmonds Wood Farm site. That application will be determined in the context of the decision on this application. At the time of this report, that application is still in its consultation period and no determination can be made on whether or not it will receive officer support. It does not therefore form a material consideration in the determination of this application.

7.24 The houses on the Elbow Lane farm site have previously been granted permission for substantial extensions. Concern has been raised that any new dwelling permitted on this site could also be substantially enlarged. As this permission is only for a temporary period, it is considered unlikely that an extension would be sought to this building. Even in the event that an application is submitted, it will be determined on its own merits at that time. The potential for the proposed dwelling to be extended cannot therefore affect the consideration of this application.

7.25 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. However, 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. Furthermore, it would not be appropriate to encourage such provision when there is the potential for the building to be required to be removed after the temporary period.

7.26 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.

7.27 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. 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. The NPPF indicates there may be special circumstances to justify isolated homes in the countryside for an 'essential need for a rural worker to live permanently at or near their place of work in the countryside'.
- 8.2 Officers accept that there is a functional need for a full-time worker at this site, and this need cannot be met by existing accommodation on the adjacent Elbow Lane Farm site. The business appears reasonably sound and viability can be tested by the experiences of the next three years. Officers consider that these material considerations are of such weight that they clearly outweigh the harm to the Green Belt in this case and constitute the 'very special circumstances' required to justify temporary permission being granted for the proposed log cabin at the site.
- 8.3 The permission will be for three years, giving the applicant time to establish whether or not the business is a viable long-term concern. At the end of the three years the cabin would have to be removed, or further permission sought and determined in accordance with the relevant local and national policies at that time.
- 8.4 It is therefore recommended that planning permission be granted, subject to the conditions outlined above.