



Appeal Decision

Hearing held on 9 July 2013

Site visit made on 9 July 2013

by J M Trask BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2013

Appeal Ref: APP/J1915/A/13/2193203

Land at Homestead Farm, Elbow Lane, Hertford Heath, Herts SG13 7QA

- 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 Mr & Mrs Barry O'Shea against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0393/FP, dated 10 February 2012, was refused by notice dated 2 November 2012.
 - The development proposed is the siting of a mobile home for a temporary period of three years for occupation in connection with a livery and pig breeding unit at Homestead Farm, Elbow Lane, Hertford Heath.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - ii) the effect on the openness of the Green Belt and the character and appearance of the area; and
 - iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The appeal site is in a rural location and currently contains stables, barns and a manège. At the Hearing it was confirmed that the surrounding field and an adjacent one are also owned by the appellants. The fields are used for horses and pig pens and access to the site is along a long unmade track.

Inappropriate Development

4. The appeal site lies within the Metropolitan Green Belt. Saved Policy GBC1 in the East Herts Local Plan Second Review reflects the advice in the Framework and expresses a general presumption against inappropriate development in the

Green Belt. The proposed home would be in the style of a log cabin and the policy and the Framework note that the construction of new buildings is not inappropriate if it is for one of a number of listed purposes. While agriculture or forestry is listed, the proposal is not in itself for one of these purposes as it would be a dwelling. The proposed home is not among the types of development listed as not inappropriate and at the Hearing the main parties accepted that the proposal is inappropriate development for the purposes of development plan policy and the Framework.

5. The Framework says that inappropriate development is, by definition, harmful to the Green Belt and such development should not be approved, except in very special circumstances. In view of the presumption against inappropriate development, substantial weight is attached to the harm to the Green Belt when considering any planning application or appeal concerning such development. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is therefore necessary to consider whether the development causes any other harm and whether there are any other considerations relevant to the overall balance.

Openness and Character and Appearance

6. The proposed cabin would be close to the existing barns and stables on the site but it would be larger than the other buildings. It would occupy part of a field and so would be detrimental to the openness of the Green Belt. The Framework states that openness is an essential characteristic of Green Belts so harm to openness carries significant weight. The field is surrounded by substantial trees and hedges but nevertheless the introduction of built form would detract from the rural character and appearance of the area.
7. The possibility of defining an area for domestic use by the occupants of the proposed dwelling was discussed at the Hearing and this would minimise the spread of domestic paraphernalia. Also at the Hearing it was accepted that the building could be reduced in size. Although this would reduce the effects on openness and the character and appearance of the area, I conclude the proposed development would be detrimental to the openness of the Green Belt and the character and appearance of the area.

Other Considerations

8. An unsuccessful application was made for permission for accommodation on the site about 14 years ago. Since then the appellants have developed a livery and pig breeding operation on the site that has been financially sound, with increasing profitability, for at least three years.
9. In addition to provisions with regard to Green Belts the Framework advises that new isolated homes in the countryside should be avoided unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Framework superseded the previous guidance in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7). Annex A to PPS7 set out a tried and tested methodology for assessing whether there was an essential need for a dwelling and this remains an appropriate methodology, albeit no longer on the basis that it is Government policy.
10. Although there are few details of the projected financial performance of the enterprise and the effect of the appellants living or not living on the site over

the next three years, the appellants have stated that they may not continue with the business if they could not live on site. They have also stated that, if they expand, they would expect to employ two part-time assistants but it has not been shown that the business could support this. The Framework promotes the diversification of rural businesses and allowing the accommodation for a limited period, in this case three years, would give the appellants the opportunity to demonstrate the future financial soundness of the business. However, any future expansion is likely to require planning permission and while the Council are content that that the activity on the site has a sound financial basis, and I have no reason to doubt the appellants' firm intention to develop the business, I consider that the lack of a definite plan for expansion and a detailed financial plan for the next three years reduces the weight to be given to the financial performance of the projected development.

11. Another test in Annex A was the functional test. Although there were fewer animals on site at the time of my site visit, there have been up to 22 horses and at the time of the application there were four breeding sows and two boars. The appellants have indicated that they wish to increase the total number of horses to 45 (mares and livery) and also the number of rare breed pigs. While it is clear that the full-time presence of the appellants on site would benefit the welfare of the animals, the issue here is whether there is an essential need.
12. The appellants have cited examples of the need for care for the horses, a horse falling ill overnight could be in immense pain and could possibly die and a presence during foaling is beneficial. A presence on site would also improve security and mitigate the effects of any fires. The appellants also refer to owners' expectations that that the livery would have 24 hour cover. The appellants have an expanding rare pig breeding business and the sows generally produce four litters a year and benefit from care and attention during pregnancy and when giving birth. I am informed that recently only four out of a litter of eleven piglets survived as the appellants were not present at the birth but the effects of this type of occurrence on the business has not been demonstrated.
13. I would expect the frequency of times when one of the appellants needs to be on site overnight to increase as the business develops. However, as noted above, any future expansion is likely to require planning permission and it has not been shown that this is likely to be granted. In addition it has not been demonstrated that the appellants would need to be on site for a sufficiently high proportion of the time to warrant a full time presence on the site. In any event, even if they were on site the appellants may not be aware of problems and, while I have taken account of the number, value and welfare needs of the horses and pigs, on the basis of the information before me, it seems to me that a combination of CCTV and occasional overnight stays on site would meet the needs of the animals. The local vet has confirmed that accommodation at the site would be extremely beneficial to the business but it has not been demonstrated that there is an essential need for one or more workers to be readily available at most times.
14. The appellants have an early start and work long hours; they live about 4.5km from the site and make four or five journeys a day. They are finding it increasingly difficult to manage the business as well as attending to the needs of their children. However, while journeys between the site and home would be

reduced, other journeys such as to schools and shops may increase and the needs of the enterprise normally carry greater weight than the personal circumstances of appellants.

15. There is no other accommodation within sight and sound of the site and the nearest properties are large and I would expect very expensive. While there may be suitable accommodation in a nearby village, this would offer little improvement for the appellants over their current situation.
16. It is important to establish that the intended enterprise is likely to materialise and that the needs of the intended enterprise require one or more people to live nearby. The proposed accommodation would be temporary but temporary permission should not normally be granted in locations where a permanent dwelling would not be permitted.
17. There has been recent expansion of East Herts Equestrian Centre which is nearby. The enterprise is now large and there is accommodation on site. However, I have seen no details of that development and the background for any planning permissions and so I am not in position to comment further.
18. Planning permission was recently granted for a mobile home (log cabin) at another site within the Green Belt (Appeal Decision Ref APP/J1535/A/12/2180304) where there were a number of similarities with this case. However, while I am not familiar with the full circumstances of that case, the equestrian business was more extensive and included the care of horses in the rehabilitation/post operation liveries and there was an undisputed business plan that showed the development of the enterprise had been planned on a sound financial basis.
19. I have had regard to all other matters raised but they are not sufficient to outweigh the considerations which have led me to my conclusion

Planning Balance

20. The harm by reason of being inappropriate development is due substantial weight and in this case the effect on the openness of the Green Belt and the character and appearance of the area also carry some weight. The Framework supports rural enterprise but it has not been demonstrated that there would be an essential need for a rural worker to live permanently on site and the weight to be attributed to the proposed development of the enterprise is limited. The other matters raised carry little weight or are neutral. Thus the other considerations put forward in support of the development carry insufficient weight to individually or collectively clearly outweigh the harm to the Green Belt such as to justify the development on the basis of very special circumstances.
21. The proposed development would conflict with saved Policies GBC1 and ENV1 of the East Herts Local Plan Second Review, which aim to protect the Green Belt and local character, and the Framework.
22. For the reasons given above I conclude that the appeal should be dismissed.

J M Trask

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ross Herbert BA(Hons) DIPTP Agent, Hertford Planning Service
MRTPI

Chrissy O'Shea Appellant

Barry O'Shea Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Nicola Beyer BA(Hons) MA Planning Officer, East Hertfordshire District
MRTPI Council

DOCUMENTS

- 1 Appellants' Hearing Statement