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Sanham Agricultural Planning Limited

AGRICULTURAL EQUESTRIAN RURAL PLANNING CONSULTANTS

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22 APR 2009

Mrs. T. Darke,
Development Services & Policy Manager,
Hinckley & Bosworth Borough Council,
Council Offices,
Argents Mead,
Hinckley,
Leicestershire. LE10 1BZ.

Your ref: 09/00178/FUL

Our ref: AGC/JW/HBBC7

21st April, 2009

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Dear Mrs. Darke,

PROPOSED AGRICULTURAL DWELLING - BREACH FARM OFF BREACH LANE, EARL SHILTON - MR. T. ABBOTT

I refer to your letter dated 9th April, 2009 together with enclosures sent by Email on 9th April, 2009 on which you have requested my comments in the form of a desktop agricultural appraisal. I now comment as follows:-

1. Breach Farm currently comprises 36 hectares (89 acres) of owned land situated to the South of the Earl Shilton By-pass which severed the original holding. The remaining land approximately 4.9 hectares (12 acres) has been taken by the By-pass, and/or sold as residential development land as it was adjacent to Earl Shilton village, or comprises the original dwelling at Breach Farm and the original farm buildings, the site of which is not scheduled for residential development. In addition to the owned land approximately 4 hectares (10 acres) are rented on an insecure basis in the area and have therefore been ignored for the purposes of this agricultural appraisal as they may not be available in the long-term to sustain the cost of the proposed dwelling. The existing dwelling at Breach farmstead is subject to an agricultural occupancy condition.

2. Due to the severance referred to above the Applicant has constructed two new agricultural buildings on the application site measuring 22.5 metres x 19 metres, and 22.5 metres x 13 metres. In addition, planning consent has been granted for the construction of 10 stables and an outdoor ménage for use as a D.I.Y. livery yard. The buildings which have been erected, replace those from the original farmstead North of the Earl Shilton By-pass, which has been severed from the main block of land.

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3. It is proposed to stock the holding which is all cropped with grass, with 90 head of beef cattle being purchased as stores and reared on/finished on the holding and 10 D.I.Y. liveries in the new stables which are being constructed at present.

4. I calculate using standard manday figures from recognised sources that the holding will have a labour requirement for approximately 0.5 of a full-time person based on the proposed beef enterprise. The livery yard will have little or no labour requirement as it is what it states D.I.Y.; thus the labour is provided by the owners of the horses/ponies which are stabled on the site. I therefore consider the holding will be part-time, and unable to pass the functional test as set out in Annex A to PPS7.

5. I have also undertaken a financial test on the proposed enterprise, and I calculate that the enterprise will be financially unviable and unable to sustain the cost of the proposed new dwelling unless the monies from the sale of the development land to the North of the By-pass are taken into account.

6. The Applicant currently lives in a dwelling to the North of the By-pass and in addition there are other dwellings in the village of Earl Shilton which are both suitable and available to fulfil the functional requirements of the enterprise and therefore the existing dwelling and others in Earl Shilton village clearly comply with paragraph 3 (iv) of Annex A to PPS7.

7. The proposed dwelling is to be sited on the approach to both the existing new buildings and the proposed equestrian unit and therefore complies with paragraph 11 of Annex A to PPS7.

8. The proposed dwelling is a large 3-bedroomed bungalow with an external floor area of approximately 192 square metres (or in excess of 2,000 square feet) if the double garage is excluded. I consider this is a large dwelling which would not be commensurate with the established functional requirement of the enterprise and would therefore not comply with paragraph 9 of Annex A to PPS7.

9. Under the heading Extended Evaluation of RES 12 and PPS7, the Applicant's agent states "From an animal welfare and security perspective the dwelling is essential". However, paragraph 6 of Annex A to PPS7 states "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".

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In conclusion, I ADVISE that if the enterprise/holding is assessed using the guidance set out in Annex A to PPS7 for new agricultural dwellings there is clearly no agricultural support for the proposed new dwelling as the holding is both part-time and financially unviable, and is unable to sustain the cost of the proposed new dwelling. However, if it is to be classed as a relocation of the existing dwelling, including the relocation of the farm and equestrian buildings which have already been granted consent, and if the Local Planning Authority are prepared to accept the application in general planning terms and that the monies from the sale of the residential development land should be taken into account, I consider the proposed site does comply with paragraph 11 of Annex A to PPS7 being well related to the existing farm buildings.

I trust the above will assist you to determine this application however should you require any further information on the agricultural or equestrian aspects of the application would you please contact myself on 01664 813706.

I enclose three recent Appeal Decisions which may assist you in this matter.

Thank you for your instructions in this matter.

Yours sincerely,



A G Coombe MRICS FAAV
Sanham Agricultural Planning Limited

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Appeal Decision

Hearing held on 9 December 2008
Site visit made on 9 December 2008

by R. Owen-Smith BA(Hons) DipTP MSc MSocSc MBA MRTPI MIHT

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

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Decision date:
27 January 2009

Appeal Ref: APP/F4410/A/08/2076313
Six Roods Lane, Burghwallis, Doncaster

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr W Seels against the decision of Doncaster Metropolitan Borough Council.
- The application Ref: 08/00012/OUT, dated 3 January 2008, was refused by notice dated 7 March 2008.
- The development proposed is the resubmission of application for farm workers dwelling.

Decision

1. I dismiss the appeal.

Procedural matters

2. The appeal application is in outline and includes consideration of all matters with details of access reserved at this stage.

3. Although the appeal site lies within an area designated as Green Belt and within an Area of Special Landscape Value, as defined by the Doncaster Unitary Development Plan (UDP), adopted in July 1998, it has not been suggested that the proposal would represent inappropriate development in terms of Planning Policy Guidance Note 2 (PPG2), *Green Belts*, or conflict with the UDP policies for the protection of those areas. I have no reason to disagree with that position and shall determine the appeal on the basis of other Development Plan policies concerning agricultural dwellings and material considerations.

Main issue

4. The main issue in this appeal is whether there is sufficient justification for the proposal in terms of the efficient operation of the enterprise to outweigh the policies controlling development in the countryside.

Reasons

5. Planning Policy Statement 7 (PPS7), *Sustainable Development in Rural Areas,* identifies as a key principle the need to strictly control new housing development in the countryside in order to protect it from encroachment. Paragraph 10 indicates that special justification is necessary for planning permission to be granted for isolated new houses in the countryside required to meet the essential need for full-time agricultural worker(s) to live permanently at or in the immediate vicinity of their place of work. Annex A requires evidence justifying an established existing functional need and that the enterprise's financial viability can sustain the size of the dwelling proposed. Saved UDP Policy ENV5 reflects these objectives, requiring a genuine agricultural reason to be demonstrated.

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6. With regard to the enterprise's functional needs, the Appellant maintains that on-site accommodation at Home Farm is necessary and essential in order to provide the appropriate level of animal care and security at all times, particularly in the light of the specialist nature of the enterprise and the required close monitoring of the stock for the purposes of breeding, calving and bull service. The Appellant also contends that a dwelling is necessary on-site in order to deter theft, vandalism and damage to plant and equipment, and to maintain an on-site presence for the safety of staff and the public.

7. The core business is based around livestock breeding and selling-on animals from 2 pedigree breeding herds and supplying the local market with carcasses from a commercial herd. Calving and livestock fattening requires all year round supervision. Submitted evidence suggests there to be an above average number of calving difficulties with 1 of the pedigree herds, requiring intervention and close monitoring (day & night) and veterinary attendance at short notice. In terms of maintaining breeding performance, close monitoring of the livestock is required throughout the year.

8. The existing labour force comprises the Appellant who resides at Elm Bank House and a stockman who lives in the locality away from the farm, both full-time. A family member (and partner in the enterprise) resides at Manor Farm in Hooton Pagnell on tenanted land. In addition, 2 other family members, who are married and live within the village, work part-time on the farm.

9. On this basis, the enterprise has successfully developed its core business and has been established over a number of years. Evidence indicates that it is well resourced. This position has been achieved utilizing the existing accommodation arrangements and the current labour force and, whilst the numbers of cattle at the farmstead are expected to increase with the implementation of a recently consented stock building (Application No. 08/02598/FUL), no additional labour is planned.

10. It is maintained by the Appellant that frequent visits at night from Elm Bank House to the livestock buildings at Home Farm, a distance of about 300 metres, in order to tend and monitor the animals are most wearing and particularly draining. In my opinion, extended hours are an acknowledged condition of animal husbandry and such a separation distance is not unreasonable. Whilst the protection of livestock from theft and injury may contribute on animal welfare grounds to the need for a new agricultural dwelling, it is not of sufficient weight to justify one. In my view, the proposal reflects personal preferences and circumstances and is not essential for the efficient operation of the enterprise. Accordingly, I consider that the case for the proposal does not outweigh the policies strictly controlling development in the countryside.

11. In my opinion, Elm Bank House provides the required accommodation for Home Farm and Manor Farm similarly for the tenanted lands at Hooton Pagnell. The dwelling of the part-time family members living in the village appropriately complies with the objectives outlined in paragraph 1 of PPS7 Annex A. Whilst the option of them moving into Elm Bank House would be presented with the Appellant occupying the proposal, their residence, in my view, is not essential to the operation of the enterprise.

12. In terms of security, certain incidents of trespass and damage are stated to have occurred at Home Farm, some of which have been reported to the Police.

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The premises at Home Farm are accessed from a bridleway and require passage past Elm Bank House. In my view, that dwelling, the presence of dogs in its side garden abutting the bridleway and the gate across the bridleway, provide a measure of security and act as a deterrent. Whilst access to Home Farm may be gained from other directions, the proposal's siting to the rear of the buildings would not necessarily dissuade intruders from gaining entry to the site. It is not evident to me that all options to make the site more secure by fencing and/or by installing security devices have been explored fully. On the basis of the evidence before me, I consider that the case for essential on-site residential accommodation for security purposes is not clearly demonstrated.

13. With regard to the safety of staff working at Home Farm and, potentially, for the public using the bridleway occasioned by the movement of animals or to counter escaping animals with the A1 close by, the Appellant contends that the proposal would enable assistance to be more readily administered. However in such circumstances, the requirements of the appropriate Health and Safety Regulations should be observed and I am not persuaded by any evidence that the proposal would afford significant additional benefit over that prevailing currently and to an extent to outweigh the policies strictly controlling development in the countryside.

14. With respect to the financial viability of the enterprise to sustain the size of the dwelling proposed, no Business Plan or audited accounts have been provided. The Appellant maintains that the enterprise is in profit, with no bank borrowings, and more than able to fund the proposed dwelling. Its Accountants affirm that it has every prospect of remaining profitable in the future. Furthermore, as stated at the Hearing, the financing of the new dwelling would be from the Appellant's own personal finances and would not feature as a charge on the enterprise's accounts.

15. Notwithstanding, I consider that such circumstances would not reflect directly the on-going economic viability of the enterprise to discharge such expenditure and would not be related to the level of the enterprise's income, as indicated at paragraph 9 of PPS7 Annex A. In any event, it has not been unequivocally demonstrated to my mind that the enterprise itself, whilst retaining profits for the year ending 31 March 2008, could sustain such a project in the long-term.

16. The proposal is for a detached 2-storey 4 bedroom dwelling incorporating 2 offices and veterinary facilities. From the evidence before me, I do not accept the proposition that the proposal is modest and find that it is too large and in excess of that essential for the efficient operation of the enterprise. Furthermore, I do not consider it necessary to construct the proposal in order to improve the veterinary facilities on-site.

17. In terms of the proposal's size, the Appellant cites a nearby property as setting a precedent. However, it is not self-evident that it is comparable directly to the proposal before me in terms of agricultural needs or the nature of the business undertaken. In any event, it is a planning principle that every application is considered on its own merits, having regard to the policies and provisions of the Development Plan and material considerations which I have done in this case.

18. Finally, the Appellant contends that alternative accommodation within the local area is either not available, further removed from Home Farm or is too expensive. However, no evidence is produced to support these contentions.

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Evidence submitted by the Council confirms that properties are available currently in the village but none are closer to Home Farm than Elm Bank House. Notwithstanding, I am not persuaded that lack of proximity is a consideration of sufficient weight to form an exception to the national and local planning policies controlling development in the countryside.

Conclusions

19. For the reasons given above, I consider that the Appellant has not demonstrated an essential need for the proposed dwelling to be provided at the appeal site. In the absence of such justification, I conclude that the need for the proposal does not outweigh national and local planning policies which seek to strictly control new development in rural areas and protect the countryside outside settlements from encroachment. In particular, the described need does not satisfy fully the tests set out in PPS7 Annex A or UDP Policy ENV5 in these regards.

20. Accordingly, I dismiss the appeal. I have had regard to all other matters raised, including the Appellant's desire to provide this sort of accommodation, but find nothing of sufficient weight to alter my decision.

R. Owen-Smith

INSPECTOR

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Appeal Decision

Inquiry held on 7 & 8 May 2008
Site visit made on 8 May 2008

by Louise Crosby MA MRTPI

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

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Decision date:
24 June 2008

Appeal Ref: APP/F4410/A/07/2057471
Land off Rockley Lane, Owston, Doncaster, South Yorkshire

- 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 P Harrison against the decision of Doncaster Metropolitan Borough Council.
- The application Ref: 07/01873/FUL, dated 8 June 2007, was refused by notice dated 16 August 2007.
- The development proposed is the siting of a temporary agricultural workers dwelling and the erection of wind turbine.

Application for costs

1. At the Inquiry an application for costs was made by Mr P Harrison against Doncaster Metropolitan Borough Council. This application is the subject of a separate decision.

Decision

2. I dismiss the appeal.

Procedural Matter

3. The address on the planning application form states that the site is in Skellow. However, it was agreed by the parties at the Inquiry that the correct address is Owston, as set out on the Council's decision notice, and also that the site does not have a postcode.

Main Issues

4. I consider the main issues to be:

   (a) whether or not the appeal proposals would constitute inappropriate development in the Green Belt and/or cause any other harm to the Green Belt;

   (b) the effect of the appeal proposals on the locally designated Area of Special Landscape Value;

   (c) whether any identified harm to the Green Belt and any other harm would be clearly outweighed by other considerations; and if so

   (d) whether very special circumstances exist which would justify the grant of planning permission.

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Reasons

5. The site comprises an agricultural smallholding of approximately 25 hectares of land in the ownership of Mr Harrison. This is in two blocks, north and south of Rockley Lane. Mr Harrison also rents approximately 40 hectares of additional grazing keep on short term grazing licences. Within the appeal site there are two existing agricultural buildings. The surrounding landscape is very flat and in the most part open. However, the area to the south west of the site contains mature woodland.

Green Belt

6. The whole of the site is within the Green Belt, where Doncaster Unitary Development Plan (UDP) Policy ENV3, provides that there is a presumption against new building, unless it is for a purpose appropriate to the Green Belt. Paragraph 3.4 of Planning Policy Guidance 2: *Green Belts* (PPG2) sets out appropriate types of new buildings within the Green Belt and Paragraph 3.12 deals with, among other things, material changes of use of land.

7. The siting of the temporary agricultural worker's dwelling would constitute a material change of use of the land. Paragraph 3.12 advises that material changes of use are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

8. Paragraph 1.4 of PPG2 sets out that one of the most important attributes of Green Belts is their openness. Paragraph 1.5 sets out the purposes of including land in Green Belts. In my opinion, the relevant purpose to be considered in this case is its assistance in safeguarding the countryside from encroachment.

9. The proposed temporary dwelling would be approximately 40 x 12 metres in size and clad in upvc material. It would be located away from the existing buildings in a flat landscape, unscreened by any significant landscaping. It would I consider by reason of its size and location detract from the openness of the Green Belt and from its purpose of assisting in safeguarding the countryside from encroachment. As such I consider that the temporary dwelling would constitute inappropriate development in the Green Belt.

10. With regards to the wind turbine, this would not fall within any of the purposes listed in Paragraph 3.4 of PPG2. Moreover, as I show at paragraphs 32-33 below, this part of the proposal would not be necessary for the agricultural use alone and therefore could not be considered as ancillary to it.

11. Further guidance is provided within Planning Policy Statement 22: *Renewable Energy* (PPS22), in respect of wind turbines in the Green Belt. This advises that "when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of Green Belt". Very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm must be demonstrated, if projects are to proceed. Based on the advice in PPG2 and PPS22, the wind turbine would in my opinion, constitute inappropriate development.

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12. The wind turbine would be approximately 14 metres high in total with a helical blade that would have a maximum diameter of approximately 4.9 metres. It would be finished in a colour to be agreed. The wind turbine would be sited beyond one of the existing agricultural barns, against the backdrop of mature woodland. Nevertheless, I consider that by virtue of its height and the scale of the helical blade it would also detract from the openness of the Green Belt and from its purpose of assisting in safeguarding the countryside from encroachment.

13. I conclude that both elements of the proposal would constitute inappropriate development, conflict with one of the purposes of including land in the Green Belt and also harm openness, for the reasons set out above.

Impact of the proposals on the Area of Special Landscape Value

14. The site falls within the Owston to Sykehouse Settled Clay Farmlands area, as defined in the Landscape Character and Capacity Assessment (LCCA) of Doncaster Borough – March 2007. Part of the landscape description states that "the flat, simple landscape has views of large skies and a feeling of openness although ground level views are curtailed by hedgerows and trees". This I consider accurately describes the appeal site and its environs.

15. A number of the key characteristics described in the LCCA exist here also. Of particular note is the reference to the "flat low lying landform, thick field boundary hedges with frequent mature hedgerow trees and occasional small deciduous woodlands with larger and more frequent woodlands in the south west".

16. As set out above the temporary agricultural dwelling would not be well related to existing buildings and would be highly visible from Rockley Lane. I am aware that a landscaping condition was suggested as a way of ameliorating the effect of the dwelling but I consider that given its size, this would be difficult to achieve in an effective manner, without the landscaping itself appearing out of place and obtrusive.

17. I am also mindful of the advice in PPS7 Annex A, paragraph 13 which advises that temporary permissions should not be given in locations where a permanent dwelling would not be permitted. In this location, a new dwelling along with its associated curtilage, would I consider have a significant detrimental effect on the Area of Special Landscape Value.

18. It is recognised within the LCCA that although the landscape is flat, there are strong vertical elements in the form of mature hedgerow trees and small woodlands. In my opinion, the proposed wind turbine because of its location behind an existing agricultural barn, with a backdrop of woodland would if painted a dark colour not detract from the visual character of the Area of Special Landscape Value. I conclude on this point that the proposed wind turbine would accord with UDP Policy ENV17 which seeks to protect and enhance Areas of Special Landscape Value. However the temporary agricultural dwelling would conflict with that policy for the reasons given above.

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Agricultural Justification for Temporary Mobile Home

19. In the case of the temporary mobile home, the other main consideration is whether there is a demonstrable agricultural need for a dwelling, when assessed against the provisions of Annex A to Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7). Paragraph 12 of Annex A advises that if a new dwelling is essential to support a farming activity, then it should normally be provided by temporary accommodation for the first three years. It sets out five tests which must be satisfied in order to justify allowing a temporary agricultural dwelling.

20. The proposed temporary mobile home would be sited on land to the south of Rockley Lane and to the north east of the agricultural barns. These consist of a 35 metre x 12 metre agricultural barn and a 21 metre x 21 metre agricultural barn. The latter has been constructed very recently. A planning application was submitted to the Council for determination on the first day of the Inquiry, seeking planning permission for a further 35 metre x 12 metre agricultural barn. There has been substantial investment in buildings on an ongoing basis. It is clear to me that the appellant's wife has committed herself to this livestock enterprise and that there is a firm intention and ability to develop it further.

21. In terms of the functional need for the temporary dwelling, work on the holding is carried out primarily by Mrs Harrison. She is helped by her husband and son when they are not working abroad. It was agreed by the parties at the Inquiry that based on the present stock levels and land associated with the holding there is a need for a full-time person to be employed on the holding. However, this in itself is insufficient to justify a temporary dwelling on the appeal site. This should arise from the requirement to be on the holding day and night to care for the animals.

22. Mr Harrison and his wife currently live in the village of Scawthorpe, approximately 10km from the appeal site. This means that they are not within sight and sound of the holding and that at times they have to travel to the holding at night. On occasions they take sick animals back to their existing dwelling which has 2 acres of land attached to it. I can understand that this is stressful and very physically demanding for Mr and Mrs Harrison, particularly on the occasions when they need to transport sick animals to their home.

23. Evidence has been produced which shows that on 29 April 2008 there were 103 cattle registered with the British Cattle Movement Service on this holding. Fallen stock removal records show that between January 2007 and March 2008 there were 7 cattle lost. It is difficult to say with any certainty however, what proportion of these animals would have survived, had Mr and Mrs Harrison lived within sight and sound of the holding.

24. The case for the temporary dwelling in any event is based upon the future plans for the holding. It is the appellant's intention to operate a herd of 65 suckler cows with followers. It is predicted that the herd would be increased gradually, with 13-14 calves being bought every two months. The level of 65 would be likely to be reached by the end of 2009. The intention is to bucket-feed the calves approximately twice a day, but I understand that they would also need additional care during the first seven days.

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25. I have great sympathy with Mr and Mrs Harrison and do not under-estimate the pressures upon them. I realise that the proposed temporary dwelling would be within sight and sound of the cattle and reduce the inconvenience of having to go out at anti-social hours and be able to attend to the needs of the animals more efficiently. However, it does seem to me that while the proposed temporary dwelling would make life easier for Mr and Mrs Harrison and allow them to be more readily on hand at times of calving, this does not prove that it would be essential for the functioning of the proposed enterprise.

26. In my view, the periods of intensive activity, approximately every two months, for a week or so, when calves need extra care are limited. Even if this is combined with the periods of calving relating to the existing herd, it is still somewhat limited. While a 24 hour on-site presence may be preferred, I am not convinced that it is essential for the proper functioning of the holding or the welfare of the cattle.

27. Since I have found that there is no functional need, it is not necessary for me to consider whether the proposal meets the remaining tests set out in PPS7 Annex A, Paragraph 12.

28. I find that the evidence in this case does not demonstrate a functional need for a temporary agricultural dwelling and as such the proposal would conflict with the advice in both PPS7 and UDP Policy ENV5 which seeks to ensure that within Green Belt locations such as this, a genuine agricultural need can be demonstrated.

Wind Turbine

29. It is proposed to site the proposed wind turbine to the south of the existing agricultural barns. The wind turbine would I note provide at least sufficient power for the business needs of the holding and the proposed temporary dwelling (or any future permanent dwelling). The alternative to the wind turbine would be a generator for the business. However, if consent was granted for a temporary dwelling but not for the wind turbine then a mains electricity supply would I understand be taken from the existing supply along the A19 road, which is close by.

30. The wind turbine would be seen against a background of dense mature woodland. I consider that it is unlikely when viewed from Rockley Lane that the wind turbine would be higher than the existing woodland. The appellant says that the wind turbine could be finished in any colour. If it were to be finished in a dark colour, this would I consider ameliorate its effect on the surrounding area.

31. Furthermore, the proposed design, using a helical blade rather than traditional wind turbine blades would in my opinion, reduce its impact further. In this regard I consider that the proposal would accord with UDP Policy PU3 which seeks, among other things, to ensure that wind turbines are designed and coloured to minimise their visual impact and that the location makes the best use of topography in ameliorating the visual impact of the turbines.

32. Nevertheless, since I have found there to be no functional need for the temporary agricultural dwelling I consider that a much less harmful way of

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providing power to the agricultural barns could be found, for example, by a generator as currently happens.

33. While this would be a noisier and less sustainable option, there are no residential properties for some distance and therefore there would be no adverse effect on any living conditions. Although the generator would be a less sustainable method of supplying electricity to the business, in my opinion the limited use of such a device would be preferable to an inappropriate form of development in the Green Belt which I have found would harm openness.

34. I conclude on this point that although the wind turbine would accord with UDP Policy PU3, it would conflict with the provisions of PPG2 for the reasons set out above.

Other Considerations

35. I am aware that other dwellings exist within the Borough, on sites with similar constraints, however very little information was available with regards to these consents. However, I did note that one was in a far less remote location and much closer to established farm buildings and other dwellings. Moreover, each application has to be dealt with on its own merits, taking into account its own unique set of circumstances.

36. I have also had regard to the fact that the location of the proposed temporary dwelling was chosen to enable surveillance of the access road to the site and to prevent visitors having to cross through the farm to reach the dwelling. I realise the importance of this if contagious diseases are found in the cattle.

37. None of these matters however outweigh the harm to the Green Belt that I have identified.

Conclusions

Very Special Circumstances?

38. I have found that both the proposed temporary agricultural dwelling and the proposed wind turbine would harm the Green Belt by reason of inappropriateness and harm to openness and that there are no other considerations which would outweigh this harm. As such, no very special circumstances exist to justify the proposed development.

39. For the reasons given above I conclude that the appeal should be dismissed.

Louise Crosby

Inspector

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01 MAY 2008

Appeal Decision

Hearing held on 8 April 2008
Site visit made on 8 April 2008

by Alison Lea MA (Cantab) Solicitor

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

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Decision date:
29 April 2008

Appeal Ref: APP/P3040/A/07/2051581
Wood End Livery, Owthorpe Road, Cotgrave NG12 3PU

- 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 D Marriott against the decision of Rushcliffe Borough Council.
- The application Ref 07/00622/FUL, dated 28 March 2007, was refused by notice dated 11 June 2007.
- The development proposed is the use of land to site a temporary dwelling (log cabin).

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this case is whether the proposal constitutes inappropriate development within the Green Belt and, if so, whether there are other considerations sufficient to clearly outweigh the harm thereby justifying the proposal on the basis of very special circumstances, with particular regard to the tests in Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7).

Preliminary Matter

3. The Council has referred to a number of policies in the Rushcliffe Borough Non-Statutory Replacement Local Plan. Although this plan was adopted by the Council in December 2006 for development control purposes, it remains a non statutory plan. In general terms the policies to which reference has been made reflect national planning advice, and I have therefore determined this appeal on that basis.

Reasons

4. Wood End Livery is situated on land within the Green Belt and includes a group of stables, barns, a horse exerciser and all weather ménage. The proposal would introduce a temporary dwelling in the form of a large log cabin to part of a field situated close to the buildings. Planning Policy Guidance 2; Green Belts (PPG2) contains a presumption against inappropriate development within the Green Belt, and paragraph 3.12 states that the making of a material change in the use of land is inappropriate development unless it maintains openness and does not conflict with the purposes of including land in the Green Belt. The appellant accepts that the development would constitute inappropriate development and I agree. PPG2 makes it clear that such development is by

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definition harmful to the Green Belt. However, the appellant considers that there are other considerations sufficient to clearly outweigh that harm.

5. Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) contains advice on when occupational dwellings for agricultural, forestry or other rural workers may be justified. Paragraph 12 states that if a new dwelling is essential to support a new activity, whether on a newly created unit or an established one, it should normally for the first 3 years be provided by a caravan, a wooden structure which can be easily dismantled or other temporary accommodation, and sets out a number of criteria which must be satisfied. I am informed that the log cabin proposed, although of a substantial size, would be a temporary structure which could be easily dismantled.

6. The appellant's wife has been running an equestrian business at Wood End Livery for a number of years, accommodating around 28 horses. The appraisal of March 2007 refers to 10 full liveries (including 4 brood mares), 5 part liveries and 13 DIY liveries. The proposal is to develop the business to concentrate on full liveries and breeding with 17 full liveries and the brood mares also being used in a new trekking facility. I accept that the move to full liveries and breeding would put more onus on the livery yard owner to provide supervision and would be more labour intensive than the current operation.

7. It is clear that in relation to the current business there is sometimes a need for a presence on site outside normal working hours, and the Council accepts that the proposal could meet the functional test contained in Annex A, in particular due to animals requiring essential care at short notice. However, the Council considers that the functional need is met by the appellant's existing property which is within a few kilometres of the site and also that there are numerous properties available within Cotgrave, some less than 1km from the site, which could meet the need.

8. I accept that providing an appropriate level of care outside normal working hours can be difficult, particularly if 2 people are required on site and given the appellant's family responsibilities, and that it would be more convenient for the appellant and his family to live on site. The proposed increase in full liveries and brood mares would make this even more desirable for them. Furthermore, I note that the appellant has stated that some business has been lost due to the lack of a dwelling on the site. However, no evidence of this has been provided and the current situation has not prevented the facility, which includes a number of horses on full livery and brood mares, from operating successfully. I am not convinced that the increase in numbers of liveries and brood mares proposed would introduce such a change that it would not be possible to continue to provide adequate supervision from the appellant's existing property or a property within Cotgrave. Although reference has been made to a number of new activities including trekking and riding for the disabled, there is no evidence to suggest that these activities would in themselves satisfy the functional test.

9. The appellant has suggested that there would also be security benefits in maintaining a permanent presence on the site. However, although the protection of livestock from theft or injury can contribute on animal welfare grounds to the need for a dwelling, Annex A makes it clear that it will not by itself be sufficient to justify one. Given that there is no evidence in this case of

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a particular risk to the safety of the horses, it does not alter my view that the functional need could be met by other accommodation in the area.

10. Paragraph 12 of Annex A provides that there must be clear evidence of a firm intention and ability to develop the enterprise concerned and clear evidence that the proposed enterprise has been planned on a sound financial basis. It is clear that there has been investment in the business and that the appellant's wife wishes to develop the business further. However, it seems that there are a variety of directions that this may take, including concentrating on full liveries, expanding the breeding part of the business and selling yearlings, developing a trekking facility, riding for the disabled and any combination of these activities. Nevertheless, a budget and financial assessment has been provided on the basis of a business consisting of 17 full liveries, 8 trekking horses/brood mares and 6 foals.

11. The parties agree that the standard labour requirement for such a business would be 4.88 full time workers or equivalent. However, the financial assessment of the proposal only includes labour costs for 3 workers and 2 of these have been costed at significantly less than the minimum agricultural wage. Although I accept that it may be possible to employ people at the amount proposed, that the appellant's family may work in excess of standard hours and that some unpaid labour may be available, all of which matters may in practice reduce the wage bill, the fact that a budget has been prepared on that basis causes me considerable concern. There was some discussion and recalculation of various figures in the budget at the hearing and I accept that the cost of full livery and trekking has risen since the budget was prepared. However, given the unrealistic labour costs contained in the budget and the uncertainties over the direction it is intended that the business will take, I am not convinced that the enterprise has been planned on a sound financial basis.

12. For this reason, and given the availability of other accommodation in the area, I consider that the tests in Annex A of PPS7 have not been met and it has not been demonstrated that a new dwelling is essential to support a new activity. No other considerations have been raised which are sufficient to constitute the very special circumstances necessary to outweigh the harm to the Green Belt which would be caused and accordingly the appeal must fail.

Alison Lea

INSPECTOR

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