



Appeal Decision

Site visit made on 4 April 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/X0415/W/21/3285706

Magpie Lane, Amersham Road, Coleshill, Buckinghamshire HP7 0LU

- 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. Kerry against the decision of Buckinghamshire Council - East Area (Chiltern).
- The application Ref PL/21/0130/FA, dated 13 January 2021, was refused by notice dated 11 May 2021.
- The development proposed is the erection of a temporary rural workers dwelling and agricultural building with access and parking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal includes the erection of an agricultural worker's dwelling and a barn. The appellant has clearly indicated that these two elements are intrinsically linked and, as such, I will deal with them as one single planning unit.
3. The planning application and appeal has attracted significant public response, of some 4,000 objections and several petitions against the proposed development. However, these mostly relate to the nature of the business, for the breeding of rabbits for human consumption, rather than the effects of the proposed development in planning terms. The land is in agricultural use. Therefore, its use for rabbit farming would not require planning permission.
4. Also, concerns raised by interested parties, with respect to animal welfare and pest control/disease, are covered exclusively by other regulation. There is a long-held principle that a planning authority should not duplicate the function of other regulatory bodies or controls. The National Planning Policy Framework (The Framework) addresses this matter. Paragraph 188 states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, and the impacts of those uses, rather than the control processes or issues that are subject to approvals under other regimes. Planning decisions should assume that these regimes will operate effectively. As such, although I appreciate that there has been a very high level of interest in the appeal, it is not within my remit to take the concerns so raised into account.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposal on ecological interests including the 'Hodgemoor Wood' Site of Special Scientific Interest (SSSI);
- Whether the proposed agricultural enterprise provides for a functional need for an essential agricultural worker's dwelling; and
- Whether the proposal would amount to inappropriate development in the Green Belt and if so, its effect on openness.

Reasons

Character and appearance

6. The appeal site is located on the corner of Magpie Lane and the A355. It is a hilly site with a relatively steep gradient rising from both the A355 and especially from Magpie Lane. The highest part of the site appears to be towards the middle of the site. The site is enclosed by tree and hedge screening. However, the trees along the A355 afford occasional glimpses of the site. The hedgerow and tree cover along Magpie Lane is more dispersed and offers several open views through this boundary into the site.
7. A number of public footpaths cross neighbouring land. Footpath COL/1/4, opposite the site, climbs a hill and offers views of the local area including the appeal site. About halfway along its route, views of the majority of the appeal site are visible. This shows Magpie Lane following a shallow valley floor with the surrounding land, either side, being substantially higher. Accordingly, built form along Magpie Lane, is mostly screened from wider views by roadside trees. The wider views of the area reveal verdant countryside with only limited sporadic development evident. Also, from the middle of the appeal site and close to its highest point, distant views of the wider rolling countryside are evident to the north and south. As a result, the site is within an exposed location that makes an important and positive contribution to its wider landscape setting.
8. The appeal site is within the Chilterns Area of Outstanding Natural Beauty (AONB). The Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs. The site forms part of the "Penn Rolling Farmland" within the Council's Chiltern Landscape Character Assessment. This area is described as being a large-scale landscape, with rolling topography and farmland and limited settlements. This creates a uniform and visually intact landscape and from my observations the appeal site is representative of this description.
9. The proposed dwelling and barn would be located a substantial distance from Magpie Lane. Therefore, these would be set away from boundary tree screening and stand within an elevated part of the site. The buildings would be in an exposed position and would significantly alter the appearance of the site.

The driveway would be of extensive length and would involve the removal of a section of hedgerow. The effect of this would also be to degrade the verdant and rural location of the site.

10. Agricultural development is broadly acceptable in rural locations. However, in this case, the combination of buildings and significant areas of hardstanding would have a detrimental adverse urbanising effect on the site. This would harm the site's rural appearance and this harm would be amplified by its exposed nature. Consequently, the scale of development together with its topographical and rolling landscape setting, would result in development that would be strident and obtrusive. Furthermore, planning conditions to require landscape screening would take time to establish and would not, in any event, obscure the proposed buildings from wider views of the site.
11. Accordingly, the proposed development would have a demonstrably adverse visual impact on the character and appearance of the landscape and would not conserve or enhance the scenic beauty of the AONB. As such, the proposal would conflict with saved policies GC1 and LSQ1 of the Chiltern Local Plan (1997 - including alterations 2001 and consolidated in 2007 and 2011) (LP) and CS20 and CS22 of the Chiltern District Core Strategy (2011) (CS). These policies seek, among other matters, for development to relate well to the characteristics of the site and the surrounding area and to conserve the special landscape character and high scenic quality of the AONB.

Ecological interests

12. The site consists of an open field within the countryside. It seems largely untended and overgrown and could provide habitats and/or foraging land for protected species. The site is also around 50 metres west of the SSSI and within its impact risk zone.
13. Paragraph 179 of the Framework includes the requirement for planning decisions to contribute to, and enhance, the natural environment by protecting and enhancing sites of biodiversity. It also requires development to minimise impacts on, and provide net gains for, biodiversity. It is therefore important that development likely to affect biodiversity contains adequate, up-to-date information to effectively evaluate the impacts. This should include relevant site (field) surveys and desk-based studies to inform the baseline position.
14. The appellant's Ecological Assessment¹ (EA) explains the poor quality semi-improved grassland is of limited suitability for protected species. It identified that the perimeter broad leaved woodland and hedgerows offered the most suitable habitat for protected species. However, surveys found no evidence of active nests, or of badger or bat habitats. The EA makes a number of recommendations to be followed during construction.
15. The EA is a preliminary ecological 'phase 1' appraisal. A 'phase 2' survey would go further than establishing the baseline. This kind of assessment would identify specific impacts anticipated to arise from the proposed development and predict the likely effects to specific ecological receptors such as on designated sites, habitats, and species or species groups. However, the appellant's EA does not illustrate that a search for records of protected species, in close proximity to the site, was undertaken. It is also not evidenced that

¹ Preliminary Ecological Appraisal, by Ellendale Environmental, 4/1/22

specific survey work for the great crested newt and other reptiles was undertaken or robust surveys for birds, bats and badgers made.

16. Furthermore, the surveys undertaken were conducted in December. This is not the optimum time of the year to find and record wildlife in accordance with Natural England's standing advice, raising doubt as to its adequacy. Consequently, the absence of sufficient evidence fails to demonstrate that protected species would not be adversely impacted by the proposal or determine the full effects of development of the site on the nearby SSSI. Furthermore, an ecological management plan would not address the absence of an adequate survey assessment at this stage, and I am unsatisfied that this issue could not be addressed through the imposition of a condition.
17. Consequently, the proposal would conflict with policy CS24 of the CS and the Framework. These seek, among other matters, for development to protect biodiversity and provide for the long-term management, enhancement and restoration and, if possible, expansion of biodiversity.

Functional need

18. Saved LP policy GB17, relates to agricultural worker's dwellings. This states that a new dwelling will only be accepted in the Green Belt where an essential need is established, in support of an established agricultural holding, and in accordance with advice within Annex 1 of PPG7.
19. The Framework replaced PPG7 in 2012 and this policy is therefore slightly out of date. Current advice can be found in Planning Practice Guidance (PPG). The PPG Chapter 'Housing needs of different groups', sets out some considerations which could be taken into account when assessing the need for housing in the Countryside for essential rural workers. These include evidence of the essential need for a rural worker to live at their place of work to ensure the effective operation of the agricultural enterprise and the degree to which there is confidence that the enterprise will remain viable. Furthermore, paragraph 80 of the Framework, states that isolated homes in the countryside should be avoided with a small number of exceptions. Paragraph 80(a) states such a dwelling could be acceptable if it can be established that there is an essential need for a rural worker to live permanently at or near their place of work.
20. The appeal site is around six hectares, consisting of grassland with parts containing old soft fruit bushes and grape vines. The proposed dwelling and barn would support an agricultural business that would consist of a 250 free-range rabbit unit, with rabbits reared in outdoor hutches having access to pens on a rotational basis.
21. The Rural Worker's Temporary Dwelling Appraisal² identifies that a person is required to closely manage the business for a number of reasons. These include the need to manage the relatively complicated and intensive breeding programme, in mind of the volume of animals involved, and the need for frequent care to limit sickness and mortality rates. The appellant asserts that an on-site night-time presence has reduced mortality rates at 'Granby', another rabbit farm owned by the appellant, from 23% to around 10%. This and maintaining on-site cleanliness, indicates that the business requires a full-time worker to be resident on site. Also, the site requires protection from predators

² Reading Agricultural Consultants, Jan 2021

- and human intrusion. These functional requirements demonstrate a need for a 24-hour on-site presence to provide the required welfare management and security.
22. Moreover, the appellant has provided financial information that shows the costs and income associated with 'Granby'. The submitted financial accounts illustrate that the proposed business, if operated in a similar manner as 'Granby', would be viable and generate a reasonable net profit. The business would therefore be capable of operating into the future, with a reasonable turnover and be self-sustaining.
23. I am cognizant that there are no existing buildings on site that could be adapted for accommodation. There is also a limited number of nearby dwellings that could meet such a need, and in any event, an on-site presence seems to be essential for the business to successfully operate. The Council has questioned the need for the business and the chosen location for the enterprise. However, policy GB27 provides support for buildings in the Green Belt associated with both established units and units yet to be established. Furthermore, the Council's agricultural consultant³ noted that due to the scale of the enterprise, especially by year three, there would be a need for the business to employ a full-time worker. The consultant also found that the welfare and security needs of the business required an employee to live on site. As such, consideration of the availability of nearby alternative housing would not be required.
24. Accordingly, based on the submitted evidence, there would be a functional need for a rural worker to live on site in compliance with policy GB17 and the Framework.
- Inappropriate development*
25. The appeal site is within the Green Belt. Saved LP policy GB2 establishes that most development in the Green Belt is inappropriate apart from listed exceptions. Provision a) allows for the erection of a building which is reasonably required for agricultural or forestry purposes. Paragraph 149, of the Framework, states that the construction of new buildings in the Green Belt are inappropriate apart from listed exceptions. Criterion 149(a) states that buildings for agricultural and forestry purposes would not be regarded as inappropriate development. Therefore, saved policy GB2 is generally consistent with the Framework.
26. The appeal site consists of a field adjacent to Magpie Lane and the A355. As identified above, the proposed agricultural building and associated dwelling would be reasonably necessary for the purpose of agriculture. As such, both elements would accord with saved policy GB2 of the LP and paragraph 149(a) of the Framework. The proposal would therefore not be inappropriate development in the Green Belt. Consequently, by virtue of the development not being inappropriate, the proposal should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it.
27. The proposal would therefore accord with saved LP policy GB2 and the Framework.

³ Assessment dated 21/4/21 by Acorus

Other matters

28. The appellant states that the site was selected as it is within his ownership and the proposed buildings located in the middle of the site to place them on flat land. It is also noted that the business would provide a product for nearby counties. However, the locational constraints indicated provide insufficient justification for the proposed geographic location or position of buildings on site. This does not sufficiently explain why the site selected would be critical for the business or why flat land on the highest part of the site would be the only appropriate position for the proposed buildings. Moreover, the locational limitations would not patently outweigh the harmful effect of the proposed arrangement of buildings on site on the character of the wider area.
29. The proposed business would provide employment for a rural worker and generate income that would may be spent within the local area. Sustainable growth and the expansion of businesses in rural areas are supported by the Framework. However, the benefits associated with the proposed business would be relatively limited and localised.
30. The appellant proposes that the dwelling be first subject to a temporary approval. This is supported in principle by the PPG for new rural enterprises. However, the visual harm would be evident from first installation of the development and if the business is successful, as anticipated by the financial assessment, it would become permanent and harmful on an ongoing basis. As such, a temporary consent would not mitigate the identified impact.

Conclusion

31. The proposal would harm the character and appearance of the area, would fail to fully address ecological interests and would conflict with the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Plenty

INSPECTOR