

05/00418



Appeal Decision

Hearing held on 13 July 2006

Site visit made on 13 July 2006

by **Mike Moore** BA(Hons) MRTPI MCIT MIHT

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

Planning

AO

J11

Clr Holden *

Clr Gale *

Clr Vickers *

Clr Mrs Drinkwater *

Clr Whiteman *

Decision file

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Date

19 AUG 2006

Appeal Ref: APP/J0215/A/05/1182861

Hadenham Farm, Gravenhurst Road, Shillington

- 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 J Murtagh Esq against the decision of Mid-Bedfordshire District Council.
- The application Ref 05/00418/FULL, dated 5 March 2005, was refused by notice dated 18 May 2005.
- The development proposed is the erection of covered box yard, covered manège and agricultural worker's dwelling.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. While the description of development on the planning application form refers to an agricultural worker's dwelling it is clear from the written submissions that this element of the appeal proposals relates to a dwelling for an equestrian worker. At the Hearing both main parties agreed that the latter was a more appropriate and accurate description and I consider that no interests would be prejudiced if it were changed to this. Accordingly, I have determined the appeal on the basis of an amended description referring to an equestrian worker's dwelling.
2. At the Hearing the main parties agreed that the post code for the appeal site was SG5 3HQ.

Main Issues

3. The main issues are:
 - Whether the case for the proposed dwelling based on horse-related activities is sufficient to justify an exception to policies designed to protect the countryside; and
 - The effect of the proposed development on the character and appearance of the area.

Planning Policy

4. The development plan includes the Bedfordshire Structure Plan 2011 (SP) adopted in 1997 and the Mid Bedfordshire Local Plan: First Review (LP) adopted in 2005. Amongst other matters, SP Policy 35 and LP Policies CS19 and HO6 seek to resist development in the countryside and in the case of new dwellings require that a specific need can be demonstrated. LP Policies CS11 and CS24 include criteria by which new dwellings associated with horse related activities will be assessed, including their visual impact. Proposals for the keeping of horses in the countryside are supported in LP Policy CS23 provided, amongst other things, building design is of a high standard and their siting is sensitive in landscape terms. The aim of protecting the countryside and local landscape character is include in LP Policy CS1. Reference has been made to other development plan

policies but I consider that those mentioned above are the most relevant to the main issues in this appeal.

5. Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) indicates that isolated new houses in the countryside will require special justification for planning permission to be granted. Where that justification relates to the essential need for a worker to live permanently at or near their place of work in the countryside the detailed advice in Annex A of PPS7 should be followed.

Reasons

Case for the dwelling

6. The holding to which the appeal proposals relate comprises some 23.5ha of land. Most of this is grassland used either for hay making to provide winter fodder or as grazing paddocks for horses. There is a group of buildings on which a commercial horse enterprise is focused. They include a covered horse yard providing 24 stables and a hay and straw barn. On my visit I saw that there were also temporary structures providing a tack store and a mess room. There is an outdoor manège.
7. The main buildings and the manège were provided following the grant of planning permission on appeal in 2003 (Ref. APP/J0215/A/03/1107639). It was envisaged at that time that they would be used for a small stud to accommodate 5 brood mares. The offspring would be kept until 4 years old and then sold on, resulting in about 20 horses being accommodated each winter. In the event, however, the business has developed differently as a livery. The appellant's written submission indicates that in addition to the 24 horses that are stabled inside another 8 remain outside on a grazing livery arrangement. At the time of the Hearing I was informed there were 28 horses on site and that there was a waiting list for the livery accommodation.
8. The appeal proposal is for the erection of a second covered box yard of similar size and appearance to that existing which would double the number of horses that could be stabled. The existing manège building would be covered and a single-storey dwelling would be provided for the full time worker who runs the enterprise. The livery business would be expanded and at the Hearing I was informed that brood mares, currently in Ireland, would be relocated to the site for stud purposes.
9. Both the development plan and PPS7 require special justification for isolated new houses in the countryside in terms of both a functional and a financial test. PPS7 states that there should be a clearly established existing functional need. In that respect the future proposals to expand the business are not part of my consideration for this test. However, in the evidence given at the Hearing the appellant indicated that there was a need based on the existing level of activity, principally in animal welfare terms but also to a lesser extent on security grounds. The Council accepts that the business needs a full-time worker. On the basis of the available evidence I concur with the Council's view. I therefore turn to whether that requirement is such that the worker would need to be readily available at most times.
10. The Council had been concerned that the previous 2003 appeal proposals would cause harm to the character and appearance of the area. Although this scheme did not include a dwelling the Council was concerned that one could be justified on animal welfare grounds and, if that appeal was allowed, such a proposal would come forward and potentially add to

the visual harm it had identified. The Inspector concluded that on the evidence before him the proposal was not of such scale and intensity that it was likely to justify the erection of a dwelling. This conclusion was based on a proposal for a stud farm and not a livery operation. While issues of disease and health are common to both I consider that the presence of breeding mares and foals would raise particular animal welfare issues not normally associated with a livery.

11. The welfare of the horses in livery stables is shared between the operators and the individual horse owners and their vets. The equestrian worker is the appellant's daughter who lives in a nearby village. The business has operated to date on that basis and I have seen no evidence that there have been particular animal welfare problems arising from this arrangement. Furthermore, the evidence given at the Hearing as to whether remote electronic surveillance of the horses was a feasible alternative option to an on-site dwelling was inconclusive. In my view, such possibilities would need to be fully explored. I have taken account of the appellant's veterinary evidence, including the possible frequency of colic in the numbers of horses present. I have also had regard to the Council's view expressed at the Hearing that if there were over 30 horses the functional test would be satisfied in this respect. However, while there is about this number at present I am not persuaded that the animal welfare needs of the livery business on the current scale are such that a worker would have to be readily available at most times or on hand day and night. A clearly established existing functional need has not therefore been demonstrated.
12. I was informed that there has been an incident of theft of equipment at the site and a concern over a number of hay barn fires in the area, as a result of which the appellant's son-in-law has on occasions stayed overnight. However, to date there have been no animal related break-ins. The site already has an intruder alarm system and close circuit television systems are now commonly used to provide security. PPS7 indicates that although security matters may contribute on animal welfare grounds to the need for a new dwelling they will not by themselves be sufficient to justify one. I do not regard the circumstances here as so special that I would come to a different conclusion in this case.
13. In terms of the financial test both PPS7 and LP Policy CS11 require that the unit and the activity concerned have been established for at least three years and have been profitable for at least one of them. The appellant has produced accounts for three years from 2003/4 to 2005/6. They show that the business has been growing over this period. No worker's salary was paid in 2003/4. The gross income of the enterprise has risen from about £4,300 in 2004/5 to almost £15,000 in the second year and £38,000 in the third. A loss was incurred in the middle year but the others were profitable.
14. The accounts for the equestrian enterprise have been extracted from those of a larger business and the Council expressed some misgivings about this. However, the appellant's accountants have given the assurance that the enterprise trades in its own right as a division of the overall business and has not been cushioned financially. I have considered the accounts on that basis.
15. I was informed that the existing buildings were constructed by autumn 2003 but it is evident from the accounts that the activity on which the case for the dwelling is based has not been established for three years. The appellant has indicated that this period will soon be reached but PPS7 sets this as a minimum requirement. The Council stated at the Hearing that in its view in the long term the business could be successful. While the shortfall in the time

period is not so significant a factor that in this case my decision should turn on it, this nevertheless adds weight to my conclusion on the functional test.

16. The appellant has undertaken a survey of the availability and cost of properties to buy or rent in the vicinity of the appeal site and concludes that there are no appropriate alternative dwellings. However, the equestrian worker is currently the appellants' daughter who lives in a neighbouring village in any event. I have had regard to the absence of any bridleways close to the site and the possible effects of additional horses on the local roads as a result of the appeal proposals. In my view, none of these factors are so significant that they would outweigh the other considerations I have taken into account in assessing the need for the proposed dwelling.
17. My conclusion is that the case for the proposed dwelling based on horse-related activities is insufficiently strong to justify an exception to policies designed to protect the countryside. As such, the proposed dwelling would not accord with the objectives of SP Policy 35 and LP Policies CS11, CS19, CS24 and HO6.

Character and Appearance

18. The appeal site is in rolling countryside. The proposed buildings would be adjacent to the existing structures at the bottom of a hill that slopes down from Gravenhurst Road. While the landscape has a generally open character there are field boundary trees and a hedgerow that in some directions provide effective screening to the current buildings from nearby settlements. In my opinion, the appeal proposals would be similarly screened in those directions. The main views of the site and the proposed development would be from Gravenhurst Road, particularly around the entrance to the access road, and, more distantly, from a public footpath (FP31) that rises beyond. In both instances the existing and proposed buildings would be seen against a backdrop of the boundary trees and hedges.
19. The previous appeal Inspector concluded that the now existing structures would be well screened in immediate to middle distance views and would appear in longer distance views as a rural farmyard. I consider that the design and materials of the proposed covered boxyard and manège would be appropriate to the rural location. The buildings would be grouped with those existing. However, including the dwelling there would be 3 more structures on the site. The covered manège would be significantly larger than the existing buildings both in terms of its height and the area of ground on which it stood. Furthermore, on my visit I saw a number of horseboxes and vehicles on the site which were conspicuous in the view from Gravenhurst Road. I consider that the additional stabling would result in significantly more parking of equestrian related vehicles. When taken together with the substantial increase in the built form on the site I consider that this would have a significant detrimental visual impact that would not be mitigated by existing landscaping. Some additional landscaping could be undertaken. However, in my view an appropriate scheme would take a considerable time to establish and I am not convinced that it could provide adequate screening.
20. In the light of these considerations I conclude that the proposed development would have a material adverse effect on the character and appearance of the area. It would therefore conflict with the aims of LP Policies CS1 and CS23 in this regard.

Conclusions

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

22. I dismiss the appeal.

M J Moore

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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James Paynter MRICS	John Drake & Co, Smith's Farm, Yardley Road, Olney, Buckinghamshire, MK46 5EH
Chris Harris BVetMed MRCVS	Principal, C P Harris & Associates, 87 Ware Road, Hertford, Herts, SG13 7EE
John Murtagh	Appellant, 19 Campton Road, Upper Gravenhurst, MK45 4JB
Caroline Murtagh-Edmundson	15 Barton Road, Upper Gravenhurst, Bedfordshire, MK45 4JP
Glen Murtagh-Edmundson	15 Barton Road, Upper Gravenhurst, Bedfordshire, MK45 4JP

FOR THE LOCAL PLANNING AUTHORITY:

Richard Murdock MA(Hons) MRTPI	Planning Officer, Mid Bedfordshire District Council
Sam Franklin BSc(Hons) MRICS FAAV MBIAC	Consultant, Landscape Land and Property, 2 Bedford Street, Amptill, Bedfordshire, MK45 2NB

DOCUMENTS SUBMITTED AT THE HEARING

Document 1	Mr Harris's Curriculum Vitae
Document 2	Extracts from Mid Bedfordshire Local Plan: First Review adopted December 2005
Document 3	Accounts for Hadenham Farm 2004-2006
Document 4	Letter from R J Blow & Company 23 June 2006
Document 5	Comments by Mr Franklin on planning application Ref. 06/00527/FULL

PLANS SUBMITTED AT THE HEARING

Plan A	Plan Ref. MBDC/1
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