



Appeal Decision

Hearing held on 30 September 2008

by **Stuart Hall** BA(Hons) DipTP FRTPI MIHT

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

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Decision date:
9 October 2008

Appeal Ref: APP/J0215/A/08/2069285

Hadanem Farm, Gravenhurst Road, Shillington SG5 3HQ

- 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 J Murtagh against the decision of Mid Bedfordshire District Council.
- The application (Ref 07/01191/FULL), dated 6 July 2007, was refused by notice dated 3 September 2007.
- The development proposed is a residential caravan.

Decision

1. I dismiss the appeal.

Reasons

2. The caravan has been in place for around 2 years, and provides overnight accommodation for use in connection with an equestrian business conducted from adjoining buildings and land. Policy HO6 of the *Mid Bedfordshire Local Plan First Review (LP)* states that residential development beyond settlement envelopes is not permitted except for essential needs. LP Policy CS11 reflects advice in *Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7)*. The main issue is whether there is a special justification for the caravan with regard to criteria set out in LP Policy CS11 and paragraph 12 of PPS7 Annex A.
3. It is agreed that the enterprise requires a full-time worker. The nub of the issue concerns paragraph 12 criteria (ii) and (iv); that is, whether it is essential for the proper functioning of the enterprise that someone is on hand at most times and, if so, whether that need could be fulfilled by other accommodation. There is no other dwelling on the unit, and no evidence of suitable and available accommodation close by. Therefore, in practical terms the issue turns on whether the caravan is essential bearing in mind that the operators' home is about 1 mile away.

Functional need: criterion (ii)

4. In July 2006, when there were 28 horses at livery, an Inspector was not persuaded that the animals' welfare needs warranted a worker on hand day and night (*APP/J0215/A/05/1182861*). However, in the current case the Council did not challenge evidence given at the Hearing that now there are never less than 35 horses normally based at the site, of which only about half are at livery and primarily the responsibility of their individual owners. The remainder, some of which are in foal, are owned by the business.

5. I saw that 17 of 24 boxes in a covered box yard were in use, as well as 2 foaling boxes in the hay store where permission for 10 more boxes has been partly implemented. Allowing for a number of horses left overnight in adjoining paddocks, I have no information to substantiate interested persons' doubts as to the accuracy of the appellant's evidence. I find that the scale and nature of the enterprise has changed since the last appeal, with more horses and with direct ownership and breeding becoming significant parts of the business.
6. I give substantial weight to veterinary evidence regarding the possible incidence of colic and other illness in view of the number and type of horses present; the risk of serious consequences if colic is not tackled quickly; and the importance of hearing the sound of horses in distress. Though several individual owners have been content to stable their horses unattended, I conclude that the present size and nature of the business justify the need for someone to be on hand at most times. It follows that, at present, the criterion (ii) test is met.

Functional need: criterion (iv)

7. Police evidence (*Document 3*) is that an overnight presence is a proven major deterrent to criminal activity, and I heard that there have been no burglaries while the caravan has been on site. However, since the enterprise began there is no recorded attempt to steal or harm horses, and PPS7 makes clear that protection of livestock against such threats does not itself justify a new dwelling. Though precise timings are in dispute it is clear that it would take the operators only a few minutes to attend an incident from their home. The veterinary evidence that I have heard and read does not suggest that such a short period is likely to be critical in relation to identified risks to animal health and welfare.
8. I conclude from this that if awareness of an incident could be reliably provided at the operators' home by remote surveillance it would not be essential for someone to stay on the site overnight. Reliance on CCTV alone would require constant monitoring, thereby substantially increasing labour costs. Therefore, I do not regard it as a realistic option while business turnover is around present levels. However, the evidence suggests that a reliable remote audible alarm system would be effective, and would not incur additional labour costs except on an occasional relief basis.
9. Whilst the appellant's representatives acknowledged at the Hearing that audible alarm systems may well exist, it was submitted that they would not offer a reliable and practical solution. However, it was accepted that they had not been researched since the last appeal, and there is no evidence before me to support the submission. In view of the restrictive nature of policies associated with development in the countryside, I share the earlier Inspector's view that the alternative of remote electronic surveillance should be fully explored. As this has not happened, it would be premature to conclude that the need for someone to be on hand at most times could only be met by on site overnight accommodation.
10. I have had regard to the Council's view, in the earlier appeal, that if there were over 30 horses the functional test would be met, but as reported in that

decision the view appears to relate only to criterion (ii), the need to be on hand at most times. Bearing in mind all the above considerations, I conclude that it has not been demonstrated that the need could not be fulfilled from the operator's present home. It follows that the scheme fails the criterion (iv) test.

Other PPS7 criteria

11. The Council do not question the appellant's firm intention and ability to develop the enterprise. Though the nature of the business has altered over recent years, I find no cause to do so. Therefore, I conclude that criterion (i) of Annex A is met. The appellant's financial information (*Document 2*) is not fully explicit, and appears to omit some significant transactions mentioned at the Hearing. However, the thrust of evidence of activities over the last 5 years demonstrates a sound financial basis to the enterprise, in compliance with criterion (iii).
12. The Council are concerned that if permission were given then a permanent dwelling would be proposed. Appeal decision *APP/J0215/A/03/1107639* (*Document 1*) notes their view that the site would not be suitable for a dwelling. However, the Council confirmed that their present concern relates to the functional need test rather than, for example, visual impact. With reference to paragraph 13 of Annex A, there is no current evidence to suggest that, were the Council satisfied that the other tests were met, permission for a permanent dwelling would not be granted at or close to the caravan site. I treat the appeal on its merits, and conclude that criterion (v) is satisfied.

Conclusion

13. The thrust of LP Policy CS11 and PPS7 is that all 5 criteria should be satisfied if a temporary dwelling is to be permitted. I have not been made aware of any exceptional circumstances that may justify a departure from strict adherence to this policy and advice. Therefore, notwithstanding my conclusions in relation to other criteria, the failure to satisfy the criterion (iv) test remains a compelling reason why the appeal should not succeed.

Stuart Hall

INSPECTOR