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# Appeal Decision

Hearing and site visit held on 13 September 2011

**by M F Aldous BA (Hons), Dip Mgt, MRTPI**

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

**Decision date: 21 September 2011**

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**Appeal Ref: APP/H2265/A/11/2155648**

**The Nursery, Taylors Lane, Trottiscliffe, Kent ME19 5ES.**

- 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 Mrs P Valler against the decision of Tonbridge & Malling Borough Council.
  - The application Ref TM/11/00658/FL, dated 11 March 2011, was refused by notice dated 7 June 2011.
  - The development proposed is a retrospective application for the retention of a residential caravan ancillary to the nursery business.
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## Procedural Matters

1. Since the original submission the application had been amended to also seek retrospective approval for the retention of two dog kennel compounds which were also on site at the time of my site visit. I have considered the proposal on this basis.
2. The proposal seeks permission for the development described above for a period of three years.
3. The recent planning history of the site, including enforcement action and an enforcement appeal decision (APP/H2265/C/11/2148611), is well documented and does not require repetition. I shall therefore take it as read.

## Decision

4. The appeal is dismissed.

## Main Issues

5. The main issues in this case are:
  - i) Whether the proposal satisfies the tests set out in PPS7 regarding the provision of temporary agricultural workers dwellings; and
  - ii) The effect of the proposal on the openness of the Green Belt and the landscape quality of the North Downs Area of Outstanding Natural Beauty (AONB), if necessary taking account of whether any adverse impact in this regard is offset by other positive planning considerations.

**Reasons**

6. The site is roughly square in shape and is located on the western side of Taylors Lane within the village of Trottiscliffe. The site is within the Green Belt and the AONB. It had a former horticultural use which the Appellant has revived in recent times following a successful planning application for a workshop and office, together with polytunnels and new access and parking arrangements.
7. For various reasons, which are personal as well relating to the recent enforcement action, progress on bringing the business forward has slipped as my colleague recognised in the enforcement appeal which was determined in June of this year.
8. However since then, and notwithstanding the uncertainty concerning the caravan, which had been brought onto the site at an earlier time to accommodate the Appellant and her family, progress has been made as I saw on my site visit in that the two polytunnels are now in place and various plants have also been brought onto the site and are being grown on for future sale.

**The PPS7 tests**

9. It is I think clear to all parties that proposals for the provision of agricultural workers dwellings within the countryside, either in a permanent or temporary form, must satisfy a range of tests if they are to succeed. These are set out clearly within PPS7 and in my view represent the central issue in this case. I shall examine this proposal in that context.
10. The first test requires clear evidence of a firm intention to develop the enterprise. Notwithstanding the hesitant start described above, I believe that there is now clear intention to implement the consent and develop the business. The approved works are now substantially complete and plants are on the site. This has involved considerable investment by the Appellant and the work has been undertaken to a professional standard. This test is met.
11. The functional need for a dwelling on site is more problematic. The business is not yet established but I believe that there is a will to do so. The Appellant argues that there is a functional need for a dwelling on the site in order to enable positive and quick action in response to primarily equipment failure or severely adverse weather conditions which might threaten the wellbeing of the plants being grown. In addition, an on site presence would have the additional advantage of acting as a deterrent to criminal activity which has been known to affect businesses of this kind within the countryside.
12. However, I heard that appropriate technology is available via sensitive on site monitoring equipment linked to telephone numbers, that can alert persons to equipment failure, or when temperatures drop to critical levels so that speedy remedial action is required. This of course implies that persons are sufficiently close to the site to be able to respond within an effective time frame.
13. When questioned the representatives of the Appellant confirmed that providing there was an arrangement of this kind, there was no essential need for an on site presence. Despite the availability of such technology its use does not appear to have been contemplated in this case. This works against the credibility of the functional need argument and I shall return to this matter later when I look at the availability of alternative accommodation in the area.

- Whilst I accept that it would be convenient and desirable for the owners of the business to live on site I am not convinced in these circumstances that there is a clear functional need for this for the reasons outlined above.
14. With regard to financial considerations, the Council confirmed that despite the absence of any data relating to the economic performance of the horticultural operation, on the basis of the business and financial plans submitted by the Appellant there was no reason to believe that the business had not been planned on a sound financial basis.
  15. I turn now to consider whether the functional need of the business could not be fulfilled by existing accommodation in the area which is suitable and available for occupation. In my view the Appellant's position is weak on this point. From the evidence available to me it does not appear that any meaningful scrutiny or consideration has been given to whether existing available accommodation, on either a purchase or rented basis, would satisfy their domestic needs and be sufficiently close for responsive action in the circumstances discussed in paragraphs 11 and 12 above.
  16. Trottiscliffe is a small village but property is available for sale, including a family home offered for sale, at a reasonable price by local standards, immediately opposite the appeal site in Taylors Lane. In addition, there are several nearby larger villages which have a range of properties for sale or rent. Details of these properties were made available to me and I noted when in the area that the drive time to the appeal site from such locations was such that swift and responsive access to the appeal site could be obtained by car.
  17. I accept that in extremely adverse weather conditions, such as heavy snow, local roads might be blocked. This would be a very occasional occurrence and I share the view expressed by the Council that meteorological information of impending situations of this kind is highly likely to be available in advance of such weather. This would permit a temporary overnight stay at the unit to be considered in order to deal with any problems which might emanate from such an event and threaten the wellbeing of the plants being grown.
  18. I am prepared to accept that until the business is fully operational and financially productive the Appellant might not be in a position to purchase a local property. However, various rental properties are available in villages within a close radius of the appeal site and there did not appear to be any satisfactory evidence that such opportunities had been realistically considered. I gained the view that it had always been the intention to move a caravan onto the site even without the functional need having been fully established and despite the knowledge that such an event would require the sanction of a planning approval.
  19. The final test deals with other normal planning considerations. There are no issues relating to access or siting matters, although the impact of the proposal on the openness of the Green Belt and the landscape sensitivities of the AONB are addressed below.
  20. In summary therefore in relation to the PPS7 tests, I am not satisfied that the functional need test or the examination of alternative potential accommodation has been satisfactorily determined in this case.

**Landscape Impact**

21. In addition to its concerns about the functional and alternative accommodation tests, the Council was also concerned about the impact of the caravan on the openness of the Green Belt, which is of course its prime asset. Having viewed the site from a number of surrounding locations I consider that such an effect would be very small. The appeal site is enclosed on all sides and given its limited height, and its containment by other permitted structures, the caravan has a very modest visual profile. The dog compounds have a similarly low visual impact. When trees and hedges are in leaf its presence is not readily discernable. As such its impact upon openness considerations is very limited, although I accept that in winter months this situation might change to some, albeit not a decisive, degree.
22. Similar considerations apply in relation to the overall landscape impact upon the AONB. Although the site is within the countryside it is well related to the village, adjacent to the settlement boundary. The caravan is however viewed as part of the approved horticultural complex, which I incidentally found to be very well maintained, and because of its height and dimensions it does not register as a discordant feature within the landscape.
23. I therefore formed the view that had the PPS7 tests been met and the proposal represented an appropriate form of development within the Green Belt, resistance to it in terms of openness (PPG2) or landscape impact considerations could not be sustained. As such I find there to be no harmful contradiction of the guidance contained within adopted Local Development Framework policies SQ1, CP1, CP3, CP6 or CP7.

**Conclusions**

24. Had the full range of PPS7 tests been met I consider that the impact of the proposal on the openness of this part of the Green Belt and the landscape qualities of the AONB would be acceptable.
25. However, I have found that when considered against the functional need for a dwelling on site and the availability of alternative accommodation in the area the proposal is defective. These represent decisive factors against the proposal.
26. For the reasons set out above, and having had full regard to all other matters raised, including the letters of support and indeed opposition to the proposal by local residents, I conclude that this appeal should not succeed.

*Michael Aldous*

INSPECTOR

**APPEARANCES****FOR THE APPELLANT**

Mr G Simpkin	Agent for the Appellant
Dip TP, MRTPI	
Mr T Kernon	Kernon Countryside Consultants
BSc (Hons), MRICS, FBIAC	
Ms S Compton	Kernon Countryside Consultants
BA (Hons), MSc, MRICS	
Mr C Luke	For the Appellant

**FOR THE COUNCIL**

Mr S Baughen	Senior Planning Officer, Tonbridge & Malling BC
TMBC, MRTPI	

**INTERESTED PERSON**

Ms A Kemp	Trottscliffe Parish Council
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