



Department for
Communities and
Local Government

Mr Tony Kernon
Greenacres Barn
Purton Stoke
Swindon
SN5 4LL

Our Ref: APP/L3625/A/14/2220464
Your Ref: KCC1380

26 March 2015

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR ROBERT FIDLER
HONEYCROCK FARM, AXES LANE, REDHILL, SURREY, RH1 5QL
APPLICATION REF: 14/0055/RET**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, R O Evans BA(Hons) Solicitor MRTPI, who held a public local inquiry on 4, 5 and 13 November 2014 into your client's application to Reigate and Banstead Borough Council ("the Council") for the retention of a farmhouse for an agricultural worker, together with retention of conservatory, fish pond, patio and extended patio, hardstanding, walls and steps, and proposed residential garden to serve the dwelling in accordance with application Ref: 14/00055/RET, dated 13 January 2014.
2. On 16 January 2015, the appeal was recovered for decision by the Secretary of State under section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because it relates to proposals which raise important or novel issues of development control and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and permission granted for a maximum period of 3 years. For the reasons given below, the Secretary of State disagrees with the Inspector's overall recommendation and dismisses the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising following the close of the Inquiry

4. Following receipt of the IR, and in line with footnote 28 to that Report, the Secretary of State wrote to you on 23 February 2015, copied to the Council, seeking clarification of your client's current position with regard to the land holdings, including an indication of the length of any new tenancies put in place to replace the tenancies which expired on 25 December 2014 (after the close of the inquiry). You replied on 11 March 2015, enclosing an additional letter from your client and details of the recently renewed

Jean Nowak, Decision Officer
Planning Casework Division
Department for Communities and Local Government
3rd Floor, Fry Building
2 Marsham Street
London, SW1P 4DF

Tel 0303 444 1626
Email pcc@communities.gov.uk

tenancies, saying that a copy of the signed sheets of the tenancy agreements had been sent to the Council. The Secretary of State has not taken into account the details of the tenancies save for noting the facts that the agreements themselves are signed but undated and the tenancies run for one year from 26 December 2014 to 25 December 2015. The Secretary of State also received a letter from the Council dated 4 March 2015 concerning the renewal of the lease. The Secretary of State has taken full account of all this correspondence (apart from the details of the tenancy agreements) in coming to his decision, and copies of the relevant papers may be obtained, on written request, from the address at the bottom of the first page of this letter.

Policy considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the Reigate and Banstead Core Strategy. This was adopted in July 2014 and confirms the designation of 70% of the Borough, including the appeal site, as Metropolitan Green Belt (IR7).
6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework) and the subsequent planning guidance; as well as the *Community Infrastructure Levy (CIL) Regulations 2010* as amended. For the reasons given at IR8-11, the Secretary of State agrees with the Inspector's views on the interpretation of paragraph 55 of the Framework.

Main issues

7. The Secretary of State agrees with the Inspector (IR12) that the main issue is whether, taking account of the harm to the Green Belt and any other harm, the very special circumstances necessary exist to justify the provision of a permanent dwelling and, if so, whether the particular dwelling which is the subject of the appeal can be justified. He has also gone on to consider whether the case for granting temporary permission has been made out.

Harm to the Green Belt/other harm

8. Having carefully considered the Inspector's consideration of the form and siting of the dwelling and its visibility, as described at IR14-19, the Secretary of State agrees with his conclusion at IR19 that it appears as an extension and consolidation of the buildings around the yard and thus fails to maintain openness or to assist in preventing encroachment into the countryside. The Secretary of State therefore agrees with the Inspector that, as it stands, and taken as a whole, the development causes serious harm to the openness of the Green Belt and detracts from the rural character and appearance of most of its surroundings, to which he attributes substantial weight.

Very special circumstances & agricultural need

9. Like the Inspector, the Secretary of State has therefore gone on to consider whether there are any very special circumstances to justify the appeal scheme. He has given very careful consideration to the Inspector's reasoning at IR20-21 and accepts the conclusion at IR21 of a present functional need for the full time presence of a stockperson. Furthermore, having considered the Inspector's findings at IR22-23, the Secretary of State accepts his conclusion at IR23 that, although there remains an element of doubt over the accuracy of some of the figures given for stock numbers and movements, this is not sufficient to undermine the case on functional need.

10. Taking account of the Inspector's arguments at IR22-28, the Secretary of State agrees with him at IR29 that it is the agricultural element of the business, and specifically the beef cattle herd operation, that gives rise to the need for a 24 hour presence and which must therefore be shown to be financially sustainable in order to demonstrate the need for such a continuing permanent presence on site. But, in that regard, the Secretary of State also agrees with the Inspector's conclusion at IR29 that the accounts and budgetary projections presented carry considerable uncertainties and are not sufficient for him to conclude that the agricultural element of the business, in its present form, gives rise to a need for someone to live permanently on site.
11. The Secretary of State also agrees (IR30) that this negative conclusion is compounded by the lack of certainty over the landholding. As indicated in paragraph 4 above, the farm tenancies have been renewed, but only for a period of 12 months (to 25 December 2015); and the Secretary of State agrees with the Inspector that the fact that the Appellant has occupied the land for a long period to date does not necessarily mean that he will be able to do so into the future. Although the enforcement issues referred to by the Inspector at IR30 have apparently been resolved, the Secretary of State considers that there could be many other external reasons why the tenancies might not be renewed in the future. Furthermore, even if the Appellant could find other suitable land to rent, as suggested at the Inquiry, this would inevitably be further way from the dwelling which forms the subject of this appeal than his current holdings, and so would not represent the very special circumstances of immediate access to his stock on which the arguments for its retention are based.
12. Overall, the Secretary of State concludes that whilst there is a present functional need for a full time presence, the case for a person to live permanently on the site has not been made out, as set out in the first bullet of paragraph 55 of the Framework. In light of this conclusion and having carefully considered the appellant's case for retention of the farmhouse, including the best interests of the appellant's son as a primary consideration, the Secretary of State concludes no very special circumstances exist to justify the harm to the Green Belt and any other harm caused by the dwelling which would justify a grant of planning permission on a permanent basis.

Scope for temporary consent and alternatives to the unauthorised dwelling

13. The Secretary of State has given very careful consideration to the Inspector's arguments at IR31-34 with regard to the need for temporary provision and whether that would meet the strict test of very special circumstances. The Secretary of State accepts (IR31) that the enterprise for which the residence is claimed to be required is a revival of an earlier operation, but he takes the view that not only does that mean that the dwelling was constructed before any need could have arisen but also that, given that the Appellant has had previous experience of running a similar operation, he should by now have been able to make a clearer case for the essential need to live permanently at or near the site. Furthermore, while he recognises that the period for which the tenancies have recently been renewed are likely to be too short to facilitate the longer-term planning necessary to endeavour to demonstrate an essential need to live permanently, he has seen no evidence to convince him that the respective landlords might be prepared to make future renewals for longer periods.
14. The Secretary of State has considered the Inspector's discussion at IR35-42 and is aware (IR36) that the Appellant's son is living with him and his best interests are a primary consideration. These are factors that the Secretary of State has taken into account in favour of the appeal and he has considered whether a 3 years or a shorter period of time is justified in the circumstances of this case. The Secretary of State takes

the view that the Appellant has been aware of the potential need to find alternative accommodation since before he leased out Unit 7 on 1 May 2014 (IR41), and could at that time have made provision to use it for his own living accommodation. Alternatively, or in the meantime, as the Inspector recognises at IR35, Units 1 and 2 have and have had the benefit of a lawful development certificate for residential use since 1996. The Secretary of State therefore does not agree with the Inspector that a grant of planning permission for 3 years is necessary for the reasons he gives at IR 46; and nor is a shorter period justified. The Secretary of State considers that it his role as planning decision taker to ensure that any interference with any human rights is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. The Secretary of State has taken into account the implications of dismissing this appeal and is aware that the Council have obtained an injunction to secure removal of the dwelling which is held in abeyance pending a decision on this appeal. However, in light of the conclusions above, the harm to the Green Belt and any other harm is such that the dismissal of this appeal is a necessary and proportionate response.

Conditions

15. The Secretary of State has considered the proposed conditions set out in the Annex to the IR. He is satisfied that these are reasonable and necessary and meet the tests of the Framework and the guidance. However, he does not consider that they overcome his reasons for refusing the appeal.

Obligation

16. The Secretary of State has considered the Appellant's offer to remove the two remaining grain silos and/or to reduce the size of the western tower by removing the fourth bedroom, However, for the reasons given at IR34, the Secretary of State agrees with the Inspector that neither of these obligations is necessary to a grant of permission and that they are largely peripheral to the main issues in the appeal. The Secretary of State does not therefore consider that these provisions are sufficient to overcome his concerns with the proposed scheme as identified in this decision letter.

Overall Conclusions

17. Overall, on the basis of the evidence before him, the Secretary of State concludes that the appeal development constitutes inappropriate development in the Green Belt, which is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. He gives substantial weight to the harm identified in paragraphs 8 and 14 above. The Secretary of State has carefully considered the appellant's case that the development is needed by an agricultural worker in connection with the current beef farming enterprise as a special circumstance under paragraph 55 of the Framework but, for the reasons given above, concludes that whilst there is a present functional need for a full time presence, the case for a person to live permanently on the site has not been made out and the harm caused by this development is not clearly outweighed by other considerations as set out in paragraph 88 of the Framework. Nor, in the particular circumstances of this case with regard to lack of long-term security of tenure for the land holdings required to rear the cattle, and in light of the extent and weight of harm in this case, does he consider that the case for a temporary planning permission for the retention of the farmhouse has been made out whether for three years or for a shorter period of time. Accordingly, the Secretary of State concludes that there are no very special circumstances justifying the harm to the Green Belt and any other harm

caused by the dwelling which would justifying granting planning permission in this case whether permanently or on a temporary basis.

Formal Decision

18. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby refuses your client's application for the retention of a farmhouse for an agricultural worker, together with retention of conservatory, fish pond, patio and extended patio, hardstanding, walls and steps, and proposed residential garden to serve the dwelling in accordance with application Ref: 14/00055/RET dated 13 January 2014.

Right to challenge the decision

19. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

20. A copy of this letter has been sent to the Council. A notification e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf