

Application No: W 08 / 0880

Town/Parish Council: Shrewley
Case Officer: Penny Butler

Registration Date: 12/06/08
Expiry Date: 07/08/08

01926 456544 penny.butler@warwickdc.gov.uk

Barn Close Nurseries, Old Warwick Road, Shrewley, Warwick, CV35 7AX
Retention of existing mobile home on a permanent basis for the current occupier and his partner only FOR Mr M Collins

This application was originally being presented to Committee due to an objection from Shrewley Parish Council, and the recommendation was to approve. The application was deferred at the Meeting of 24 July 2012 at the request of the applicant in order that medical information be provided to the Council in order to justify 'very special circumstances' sufficient to warrant the recommended occupancy condition being extended to include Mrs Collins. Following the submission of this evidence, and the consideration of the application by the Council's agricultural consultant, the recommendation is changed to refusal with a request for the authorisation of enforcement action.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission and authorise enforcement action securing the removal of the mobile home with a compliance period of six months.

DETAILS OF THE DEVELOPMENT

The proposal as originally submitted in 2008 was to retain the existing mobile home on site for a further three years. An agricultural appraisal was submitted with the application, making a case for the need for a second agricultural workers dwelling. The Council commissioned their own agricultural consultant to assess this information against the requirements of Annex A of PPS7, which found that there was insufficient functional need for a second worker to live on site. The agent then submitted further information regarding the health of the current occupier of the mobile home. The elderly occupier has a number of medical conditions confirmed to the Council by his doctor, who considers that his health would be best served by being allowed to remain living on the site with his wife. Following the deferral of the application from Committee in July 2012, a letter from the applicant's wife's doctor has been provided detailing her medical condition, which means she requires help and monitoring on a daily basis. The Council has since commissioned a further agricultural consultant to review the updated evidence, and the revised recommendation takes into account this advice.

The son of the applicant works at the nursery and lives with his family in the modern bungalow, whilst the applicant who lives in the mobile home acts in a managerial capacity. The proposal has been amended since originally submitted to request permanent retention of the mobile home on a personal basis, for the

benefit of the applicant and his wife only. On discontinuance of their occupation the mobile home will be removed from site.

THE SITE AND ITS LOCATION

The application site consists of the site of a mobile home, referred to as The Bungalow, which is situated at the end of the vehicular access to the plant nursery known as Barn Close Nurseries. A modern detached house sits 5m away to the West, which is the agricultural workers dwelling approved in 2004 for the nursery.

The applicant owns the 0.8 hectare parcel of land which makes up the nursery and this includes one large glass house with a sales area provided within an annex, a number of polytunnels and outdoor beds. The site fronts Old Warwick Road where a further detached dwelling adjoins the site to the East. The land is a short distance from the loose scattering of dwellings making up Little Shrewley and the area is within the Green Belt.

PLANNING HISTORY

Temporary consent was given in 1997 for use of the land for siting a mobile home, which expired in 2000. Permission was granted in 2004 (W04/0697) for the erection of an agricultural workers dwelling which has since been built. An agricultural occupancy condition was imposed on the dwelling along with a condition preventing its occupation prior to the removal of a mobile home on site, since there was no justification for a second agricultural workers dwelling on the site.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework
- Annex A - Planning Policy Statement 7: Sustainable Development in Rural Areas
- RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)

SUMMARY OF REPRESENTATIONS

Shrewley Parish Council: Object to the change in application and would like the original application- that is the retention of the mobile home for three years to be reviewed at the end of the three year period to be considered by the Committee. Furthermore the Parish Council would like to be consulted regarding any special conditions that are placed on the application.

Public response: One objection received from Mill Farm. The condition requiring removal of the mobile home imposed on the replacement dwelling has been ignored, so it is doubted that the three year period of retention now being requested will be enforced. The justification submitted with the application is considered to be emotional and based on self imposed constraints. Two further people question why a decision has not been made when the application was to extend the permission from 2008 to 2011.

WCC Ecology: No comment.

Reading Agricultural Consultants:

- The need for an agricultural worker's dwelling was satisfied in 1997 when consent was granted for a mobile home on the site, and the need for a permanent dwelling was satisfied in 2001 and 2004 when a permanent dwelling was granted.
- On contemporary nurseries it is difficult to justify any need for a temporary or permanent dwelling on site as essential, as modern automatic technical support systems are efficient, reliable and can be equipped with alarm systems. It would now be difficult to make a planning case for the essential need for the first agricultural worker's dwelling on the site.
- There is no existing functional need for a second dwelling at the site, whether temporary or permanent.
- Any horticultural and security needs can be satisfied by the first dwelling at the site.
- Should commercial horticultural activity increase on the site and demand for key workers increase, then existing accommodation could be found in the locality.
- None of the supporting medical notes suggest that moving away from the site would have an adverse impact on the applicant's health.
- It is common in land related occupations for business succession to raise issues associated with the occupation of associated tied dwellings. In some cases personal permissions have been granted, but only in special circumstances, for instance where an individual has a short life expectancy or specific condition that makes relocating very difficult.

The application makes no case for special circumstances that might justify the retention of the mobile home.

ASSESSMENT

The condition imposed on the 2004 consent for the agricultural worker's dwelling required the removal of the mobile home and therefore its presence on site is a breach of a planning condition. The relevant enforcement period for development (in this case involving a change of use of the land for the positioning of the mobile home) which is contrary to a condition is 10 years, which has not yet elapsed since 2004. Enforcement action can therefore be taken to remove the mobile home from the site.

The NPPF states that new buildings within the Green Belt are to be regarded as inappropriate development but exceptions to this are buildings for agricultural purposes (paragraph 89). Paragraph 55 states that isolated new homes should be avoided in the countryside in order to promote sustainable development, unless there are special circumstances such as the essential need for a rural worker to live at or near their place of work. The Council's agricultural consultant does not consider there is a case for permitting a second agricultural workers dwelling for the nursery, using the guidance contained within the Annex A to PPS7 (which has now been superseded by the NPPF and does not contain such detailed guidance) so the proposal would therefore be refused unless the applicant can demonstrate very special circumstances sufficient to outweigh the harm to the Green Belt. The NPPF places substantial weight on any harm to the Green Belt, and states that very special circumstances to justify inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The applicant's case relies on the fact that they are in poor health and wish to remain living on the site with their spouse rather than being forced to relocate home at a difficult time. In terms of harm, the mobile home has been in position for some years, so the visual impact of the development is readily apparent. The visual impact is limited since it is sited at the rear of the nursery premises at a distance of over 130m from the road, adjacent to two field hedges bordering arable land behind. The building itself is a low lying structure with a shallow pitched roof, therefore the visual impact of the building in this location is somewhat limited in terms of loss of openness. Harm to the character of the countryside is also limited since the building is sited within the built up part of the nursery site, very close to the modern worker's house and the array of polytunnels. The visual harm to the Green Belt is therefore considered to be minor, and the circumstances put forward by the applicant need only outweigh the harm to the Green Belt by reason of inappropriateness, however, substantial weight is to be placed on this harm. The proposal would also lead to an unsustainable form of development in the countryside due to the lack of nearby services.

When accepting a case for very special circumstances made on health terms, it would usually be based on a shorter than expected life expectancy, imminent mortality, accommodation requirements not immediately available elsewhere, or a specific condition that makes relocating very difficult, but none of these circumstances apply here. In the absence of any such evidence or the submission of any very special circumstances by the applicant, it is considered that the development would conflict with paragraph 55 of the NPPF as there is no essential need for a worker to live at the site, and paragraph 89 as inappropriate development within the Green Belt.

Temporary planning permission should only be considered where a temporary development is proposed, or where a trial run is needed in order to assess the affect of the development on the area. The affect of the development is clear since the development is on site, the conflict with Green Belt guidance is clear, and it is possible that the mobile home may be required for its current purpose for another 20 years or more, therefore it is not considered appropriate to grant a temporary permission in these circumstances.

This recommendation is made with regard to the human rights of the applicant and his spouse. They currently reside on the site, so if the application is refused, they would be displaced, and unable to use their land to provide a home for themselves. Protection of the Green Belt through the application of Green Belt policy is a matter of public interest and a legitimate aim. For the reasons given above, the impact on the Green Belt by reason of inappropriateness would be significant. Taking into account all material considerations, it is considered that the protection of the Green Belt cannot be achieved by any means less interfering of the applicant's human rights. The refusal of this application is considered proportionate and necessary, and would not result in a violation of the applicant's human rights.

An appropriate period for compliance with the requirements of an enforcement notice should be both reasonable and directly related to the actions required to be taken. In this particular case, compliance with a notice would require the occupants of the site to vacate it and remove the mobile home. In doing so, they would need to identify and move to alternative accommodation. In view of these matters, a compliance period of 6 months is considered to be appropriate.

CONCLUSION/SUMMARY OF DECISION

In the opinion of the Local Planning Authority, the applicant has not demonstrated that there is an essential need for a second agricultural worker to live at the site, or very special circumstances sufficient to justify the inappropriate development within this Green Belt area, and on this basis the proposal is considered to conflict with the policies listed.

REFUSAL REASONS

- 1 The site is situated within the Green Belt and the National Planning Policy Framework states that, within the Green Belt, the rural character of the area will be retained and protected. It also contains a general presumption against "inappropriate" development in Green Belt areas and lists specific forms of development which can be permitted in appropriate circumstances. The proposed development does not fall within any of the categories listed in the Framework and, in the Local Planning Authority's view, very special circumstances sufficient to justify departing from this have not been demonstrated. The development is thereby considered to be contrary to the National Planning Policy Framework.

 - 2 The site is situated within the rural area where the National Planning Policy Framework states that, to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. It states that isolated new homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. The proposed development does not provide this justification and, in the Local Planning Authority's view, special circumstances sufficient to justify departing from this Guidance have not been demonstrated. The development is thereby considered to be contrary to the National Planning Policy Framework.
-