

# REPORT FOR DECISION

<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>1 September 2015</b>
<b>SUBJECT:</b>	<b>PLANNING APPEALS</b>
<b>REPORT FROM:</b>	<b>HEAD OF DEVELOPMENT MANAGEMENT</b>
<b>CONTACT OFFICER:</b>	<b>DAVID MARNO</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> <p>Enforcement Appeals</p> <ul style="list-style-type: none"> <li>- None to report</li> </ul>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to the note the report and appendices
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework?      Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All listed
<b>Scrutiny Interest:</b>	N/A

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 BACKGROUND**

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

**2.0 CONCLUSION**

That the item be noted.

**List of Background Papers:-**

**Contact Details:-**

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**Planning Appeals Decided  
between 20/07/2015 and 23/08/2015**



**Application No.:** 57082/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Mr George Bretherton

**Location:** Gorsey Brow Farm, Fern Grove, Bury, BL9 6SS

**Proposal:** Erection of 1 no. dwelling

**Appeal Decision:** Dismissed

**Date:** 29/07/2015

**Appeal type:** Informal Hearing

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## Appeal Decision

Hearing held on 16 June 2015

Site visit made on 16 June 2015

**by Tom Cannon BA DIP TP MRTPI**

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

**Decision date: 29 July 2015**

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**Appeal Ref: APP/T4210/W/14/3001924**

**Gorse Brow Farm, Chesham Road, Bury BL9 6SS**

- 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 George Bretherton against the decision of Bury Metropolitan Borough Council.
  - The application Ref 57082, dated 8 January 2014, was refused by notice dated 14 August 2014.
  - The development proposed is the erection of a new farmhouse.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. As confirmed in the Statement of Common Ground (SCG), the Council are no longer seeking a financial contribution towards the provision of recreational facilities. This accords with national policy, published on 28 November 2014 in the Written Ministerial Statement (WMS), and guidance in the Planning Practice Guidance (PPG) that affordable housing and tariff style obligations should not be sought for small scale residential schemes. I have determined the appeal on this basis.

### Background

3. Gorse Brow Farm is located in the Green Belt to the north of Bury. Access to the site is via an existing driveway and public right of way, linking the farm to Ferngrove East, which runs parallel to the M66 motorway. The existing farmhouse forms part of a range of traditional former agricultural buildings, which are arranged around a central courtyard and have been converted into residential dwellings. Gorse House, a large detached stone property to the south of this cluster of development is currently in use as a children's home. All of these buildings are within Mr Bretherton's ownership along with the surrounding land at Gorse Brow Farm. I understand that the residential conversions are all currently occupied, with the properties rented out to tenants with leases ranging between 12 months and 5 years in length.
4. In total the agricultural holding comprises of approximately 27.83 hectares of land, which is predominately used for haylage and 'contract bailing'. The appellant and his teenage daughter have also introduced a rare pig breeding enterprise involving imported 'Belgian Pietrain' pigs. Currently there are approximately 30 pigs on site associated with this aspect of the business,

which has recently expanded through investment in new, and improvements to existing buildings at the farm. In addition, 150 sheep are bought every autumn, over wintered on the land and then sold at auction the following spring. The appellant confirmed at the Hearing that his family have worked the land at Gorsey Brow Farm for some time.

5. It is proposed to site the new agricultural workers dwelling on an area of rough hardstanding, to the east of the existing residential properties, and to the south of three modern steel framed agricultural buildings.

### **Main Issues**

6. Based on all that I have seen, read and the discussion at the Hearing, I consider that the main issues in this case are:
  - Whether the proposal is inappropriate development in the Green Belt;
  - The effect of the proposal on the openness of the Green Belt;
  - The effect on the character and appearance of the countryside; and
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

### **Reasons**

#### *Whether inappropriate development*

7. Paragraphs 89 and 90 of the National Planning Policy Framework (the Framework) sets out the forms of development which are not inappropriate within the Green Belt. The Framework establishes in paragraph 89 that new buildings within the Green Belt are inappropriate unless, amongst other things, they are buildings for agriculture and forestry. Saved Policy OL 1/2 of the UDP closely aligns with the Framework, advising that development is inappropriate, unless it is for one or more of the listed purposes, including agriculture and forestry.
8. The appellant suggests that the appeal development involves the erection of an agricultural workers dwelling and should therefore be considered as a new building for agricultural purposes. However, to my mind the proposal has been designed as a dwelling and is intended to be used primarily for residential purposes. Moreover, the principal requirement for the new dwelling is to meet the needs of the appellant's partner who suffers from a degenerative medical condition. Consequently, the proposal would not therefore constitute a new building for agriculture or forestry. As such, the new dwelling would represent inappropriate development in the Green Belt, which according to paragraph 87 of the Framework is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness*

9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. The land despite being roughly covered in hardcore and informally used to store agricultural machinery is currently free

from built development. The appeal scheme would introduce a spacious four bedroom property with rooms in the roof space. With external dimensions of 12 metres by 15 metres the footprint of the property would be particularly large. Thus, due to the undeveloped nature of the existing land, and its extensive footprint, bulk and mass, the new dwelling would reduce the openness of the Green Belt. As such, the proposed dwelling causes some material harm to the openness of the Green Belt and would conflict with paragraph 79 of the Framework.

### *Character and appearance of the Countryside*

10. The proposed dwelling would be sited to the south and east of large, steel farmed agricultural buildings and the two storey residential conversions. It would therefore be viewed as part of a group of buildings rather than an individual structure within the countryside. Although the development would partially obscure views of the countryside to the east, from the public right of way which extends through the farm, this would only occur for a small section of the footpath, with clear and interrupted vistas available along the remainder of the route. Glimpses of the dwelling would also be available from the M66 motorway and countryside to the south and west of the site. However, the visual impact of the new property could be further mitigated from this direction through additional landscaping, a matter which could be secured by condition.
11. Thus, the appeal development would not have a detrimental impact on the visual amenity of the countryside or the Special Landscape Area. In this respect the scheme would accord with Saved Policy EN1/1 of the UDP and one of the core planning principles that planning should recognise the intrinsic character of the countryside.

### **Other Considerations**

#### *Essential need*

12. In the interests of sustainable development, paragraph 55 of the Framework indicates that isolated homes within the countryside should be avoided. The Framework states that one of the few special circumstances for permitting such homes within the countryside is to meet an essential need for a rural worker to live permanently at, or near, their place of work in the countryside.
13. The Framework does not provide any guidance on what constitutes an essential need. It seems to me that in order to determine whether a need is both essential and permanent it is necessary to establish whether there is a physical need for someone to be on site most of the time (e.g. to care for animals or work the land), but also whether the operation itself has reasonable long term prospects such that it can be regarded as permanent.
14. The Council accept that there is a functional need for a full-time worker to reside on site in connection with the agricultural enterprise at Gorsey Brow Farm. They also agree that the business operated by Mr Bretherton is financially viable, and the proposed dwelling would be of an appropriate size. Given the scale of the existing enterprise, the financial information provided and the size of the appellant's family, I see no reason to disagree with the Council's stance on the above matters.
15. Annex A of Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7) states that permanent agricultural dwellings shall only be allowed

if the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned. The Council's Development Control Policy Guidance Note 8 – *New Buildings & Associated Development in the Green Belt 2007* (DCGN8) also refers readers to the tests contained in Annex A to PPS7, including the above requirement.

16. Although, as pointed out by the appellant, PPS7 is no longer extant, this consideration, in my judgement, can still be regarded as a material consideration and has some pertinence in relation to this case. The potential availability of alternative accommodation to meet the 'essential need' of the appellant and his family is also fundamental to assessing whether very special circumstances have been demonstrated to outweigh the identified harm to the Green Belt from the proposed new dwelling.

#### *Alternative accommodation*

17. The appellant, his partner and two children, aged 14 and 19 currently reside in a converted barn at Gorse Brow Farm. The property is situated facing the courtyard and comprises of a lounge, kitchen/diner, sun room, office, utility/boot room and WC on the ground floor, with two bedrooms and a bathroom at first floor level. It is agreed that prior to the appellant's partner being diagnosed with a degenerative medical condition, this property met the 'essential need' of Mr Bretherton as a rural worker, to live permanently at his place of work in the countryside.
18. I recognise that the proposed new dwelling would be sited immediately adjacent to the barns housing the rare breed pig enterprise. I also understand that the appellant on one occasion has lost piglets shortly after birth due to delays in reaching the animals from the existing farmhouse. However, this property is only about 65 metres away from the main farm buildings housing the pigs, and in my view is therefore in a location which fulfils the functional requirements of the holding.
19. The other converted barns at Gorse Brow Farm are currently rented out by the appellant. Mr Bretherton also lets out the substantial detached property, Gorse House to the south of the main complex. It was confirmed at the Hearing that some of these units are on 12 month leases. Consequently, alternative accommodation could potentially become available on site within a relative short time frame which could meet the needs of the appellant and his family.

#### *Personal circumstances and suitability of the existing farmhouse*

20. Ms Taylor, the appellant's partner suffers from autoimmune disease, a condition where the immune system attacks healthy cells within the body. Ms Taylor confirmed that she has good and bad days. On a bad day she is unable to climb the stairs within the existing house and uses a wheelchair to get about. When outside the house Ms Taylor requires a stick or mobility scooter to move around. Currently, Mr Bretherton, their two teenage children and the couples' older daughter and her husband, who also reside at Gorse Bank Farm, provide support with Ms Taylor's medical needs. Whilst she does not currently receive regular care at home from medical professionals, I understand it is inevitable, that due to the nature of Ms Taylor's condition she will require a live in carer in the future.

21. As a consequence of Ms Taylor's medical condition the lounge of the farmhouse is used as a bedroom. Although the property has a ground floor WC this is restricted in size and therefore unable to be adapted for use by Ms Taylor. I also observed that the staircase is steep, making access difficult to the first floor bathroom. The installation of a stair lift would also restrict access for other occupiers of the house, due to the narrow width of the staircase. Consequently, the existing layout of the property presents difficulties for Ms Taylor, a situation, given the nature of her condition that is only likely to increase in the future.
22. I am mindful that an occupational health assessment has not been undertaken to establish whether the property could be adapted to meet Ms Taylor's needs. Moreover, whilst the appellant has pointed to issues with the construction and layout of the building which could make alterations to the farmhouse difficult, I have also not been provided with a detailed structural report to confirm this.
23. It has been suggested by the Council that the property could potentially be extended to the rear to provide the necessary accommodation. I was able to observe during my site visit that the farmhouse has a single storey utility/boot room to the side of the main two storey element of the property. By enlarging the doorway to this room, it would be possible to provide access wide enough to accommodate a wheel chair. This would also enable access to a potential rear extension without affecting the main part of the property. I therefore see no reason why an appropriately designed single storey rear extension could not be constructed providing the two additional ground floor bedrooms and a bathroom which could be required for Ms Taylor and a carer in the future. Level access to the existing kitchen/diner and lounge could also be available from a rear extension. Furthermore, such an extension could potentially be constructed under permitted development rights without requiring planning permission.
24. Concerns have been raised by the appellant regarding how materials used in the construction of any future extension would be transported to the rear of the farmhouse. Whilst I accept there is no external access to the property, Mr Bretherton owns the surrounding land and could therefore make temporary access arrangements to the rear of the farmhouse.
25. For the above reasons, and based on the evidence put before me in this appeal, I conclude that the existing house could be adapted to meet both Ms Taylor's existing and future needs. Thus, whilst I am sympathetic to Ms Taylor's personal circumstances, the unsuitability of the existing farmhouse does not weigh in favour of the scheme.

### *Human rights*

26. The appellant and his partner clearly have a right to a comfortable life as possible. The provision of a new purpose built dwelling would clearly provide benefits to Ms Taylor. Nevertheless, in view of my conclusions on the potential alternative accommodation and suitability of the existing farmhouse at Gorsey Brow Farm, the dismissal of this appeal would not breach the requirements of Article 1 of the First Protocol of the Convention, as incorporated by the Human Rights Act 1998. In such circumstances, it is also unlikely that it would be necessary for the appellant to sell the farm and abandon the business.



### *Other matters*

27. Conditions limiting the occupation of both the existing and new dwelling to a person solely or mainly working, or last working in the locality in agriculture or forestry, or a widow or a widower of such a person, or any resident dependants have been suggested by the parties. The appellant has indicated that his 14 year old daughter would occupy the farmhouse in the future, with the remainder of the family living in the proposed new dwelling. However, as his daughter is a minor she would not currently comply with the proposed condition. As such, the proposed condition would not be reasonable and fail to satisfy the tests in paragraph 206 of the Framework.

### **Conclusions**

28. The proposal would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. The scheme would also result in some harm to the openness of the Green Belt, to which I attach some weight.

29. On the other hand, some limited weight is attached to the personal circumstances of Ms Taylor and her right to a comfortable life as possible. However, as I have found that the existing farmhouse could potentially be adapted to meet her needs, alternative accommodation on the farm could become available within the short to medium term, and in view of the harm I have identified above to the public interest, when applying the proportionality test, the dismissal of the appeal would not disproportionately impact on Ms Taylor's human rights. Such considerations do not therefore clearly outweigh the totality of harm which is the test that they have to meet. Consequently, very special circumstances do not exist. For the reasons given the overall conclusion is that the appeal should fail.

*T Cannon*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr John Hodkinson	Agent
Mr George Bretherton	Appellant
Ms Suzette Taylor	Appellant's Partner
Mr Stuart Rothwell	Thompson Designs, agent for original planning application

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Tom Beirne	Senior Planning Officer Bury Council
Mr Michael Whitehead	Senior Planning Officer Bury Council
Mr Paul Knight	Planning Technical Support Bury Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Signed and dated Statement of Common Ground