
Appeal Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/X1545/W/16/3151358

Land at the corner of Fambridge Road and St Stephens Road, Cold Norton, Essex CM3 6NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Miss Anne-Marie Pharoah against Maldon District Council.
 - The application Ref FUL/MAL/16/00202, is dated 24 February 2016.
 - The development proposed is the siting of a mobile home as an agricultural workers dwelling for a temporary period of 3 years.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home as an agricultural workers dwelling for a temporary period of 3 years on land at the corner of Fambridge Road and St Stephens Road, Cold Norton, Essex CM3 6NP in accordance with the terms of the application Ref: FUL/MAL/16/00202, dated 24 February 2016, and subject to the following conditions:
 - 1) The permission hereby granted for the siting of a mobile home as temporary agricultural workers dwelling shall expire three years from the date of this permission. Thereafter the mobile home shall be removed and the land restored to its former condition on or before the expiry of three years, in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.
 - 2) The occupation of the mobile home shall be limited to a person solely or mainly employed in agriculture or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 3) Unless within three months of the date of this decision a scheme for surface water and foul drainage is submitted to the local planning authority for approval, and unless the approved scheme is implemented within two months of the local planning authority's written approval, the use of the site for residential occupation shall cease until such time as a scheme is approved and implemented.
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Application for costs

2. At the Hearing applications for costs were made by Miss Ann-Marie Pharoah against Maldon District Council and by Maldon District Council against Miss Ann-Marie Pharoah. Both applications are the subject of separate Decisions.

Preliminary matters

3. The appeal arises from Maldon District Council not proceeding with the validation of the application.
4. The proposal is retrospective in nature with it being confirmed at the hearing that the mobile home has been at the site since October 2014 and is the subject of an enforcement notice.

Main Issues

5. The main issues are:
 - whether there is an essential need for a mobile home for an agricultural worker having regard to relevant development plan policies and the National Planning Policy Framework (the Framework);
 - whether the proposal would amount to sustainable development; and
 - the effect of the development on the character and appearance of the area.

Reasons

Policy context

6. Paragraph 55 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. Policy CC15 of the Maldon District Replacement Local Plan (LP) deals with temporary accommodation for agricultural workers. It provides that permission will not be granted outside development boundaries unless all of its criteria are met, including that there is clear evidence that the enterprise has been planned on a sound financial basis and a firm intention and ability to develop has been demonstrated.
8. Whilst the Policy pre-dates the Framework and the Framework does not specifically set out a requirement for a financial test, in the circumstances of this case I consider that this criterion, and the others set out within LP Policy CC15, form an appropriate basis for establishing whether or not there is an essential need for a rural worker to live permanently at the site, as required by paragraph 55 of the Framework. Therefore, having regard to paragraph 215 of the Framework, I give the Policy substantial weight.
9. With regards to the Maldon District Pre-Submission Local Development Plan 2014-2029 (LDP), the Council confirmed that although a new examination is to be carried, there are no unresolved objections to Policy H7, relating to agricultural and essential workers' accommodation. I also find this policy to be consistent with the Framework and having regard to paragraph 216 of the same, I give it a good measure of weight.

Essential need

10. The proposal relates to a relatively new agricultural enterprise on a land holding which extends to approximately 5 hectares. The appellant explained at the hearing that 42 goats had to be culled in March of this year, due to disease, and that there are presently 78 boar goats at the holding along with 100 turkeys. Going forward, to avoid potentially introducing disease, it is the appellant's intention to breed a closed herd organically.
11. Whilst I am not convinced that the day to day management of the enterprise, requires the appellant to live on site, it is evident that the nature of the boar goat is such that there are a number of inherent risks associated with the kidding process in particular, and that issues can arise quickly. This position is supported by the letter from the appellant's vet.
12. I appreciate that the vet is located approximately 45 minutes away, however, it was explained that instructions could be given over the phone for some cases or advice provided pending the vet reaching the holding. The appellant also confirmed that she has delivered kids herself and I was able to see a store of medication in the barn. I have also noted the representation received from the NFU, which, although brief, is a matter to which I am able to attach some weight in favour the proposal.
13. It was explained that a doe can kid up to 3 times in two years and that new born kids are ready to kid between 7-12 months of age and this is determined according to weight. The norm is for twins to be born. As the kidding process could take place at any time during the day or night, I am satisfied that for animal welfare reasons and given that the death of a kid or doe is the main risk to viability, that it is essential that the appellant lives within site and sound of the goats during the kidding process. The consequences of not having a presence on site would in my view materially affect the functioning and success of the enterprise. Accordingly I find that there is a functional need for a dwelling to be located on the holding.
14. At present, kidding takes place in concentrated batches throughout the year. However, the appellant explained that the objective for the business is to achieve a continuous kidding process throughout the year by organically increasing the number of does, so as to provide a constant supply of meat. Consequently, it would not be appropriate to restrict presence to certain times of the year and therefore I am persuaded that there is a need for an agricultural worker to be present on the holding throughout the year.
15. It was evident from my site visit that there are no buildings on site that are suitable for conversion for temporary residential purposes. Even though I cannot be sure, on the basis of the evidence before me, that there isn't any alternative living accommodation in Cold Norton, this is somewhat irrelevant given the requirement to be within sight and sound of the goats for both business viability and animal welfare reasons.
16. In terms of security, whilst I accept that an on-site presence can act as a deterrent, it was clear from my own observations that there is substantial scope to improve other security measures at the site. I find therefore that the security issues, whilst important, do not by themselves make a compelling case for allowing the appeal.

17. I agree with the Council that the evidence of viability is somewhat limited and that there are a number of inconsistencies and arguable assertions as well as a number of potentially unrealistic expectations. Nevertheless, the appellant has clearly suffered a substantial set back having to cull 42 goats from an infected herd and this has undoubtedly hindered progress. In this regard, the appellant confirmed at the hearing that with reference to the financial forecast, she is back to the start of year 1.
18. Whilst the unaudited accounts submitted at the hearing show a modest profit of £5,477 for the year ending 31 July 2016, the evidence submitted does demonstrate a strong demand for the appellant's product. It is also clear that the species is relatively prolific. There is therefore potential for the business to grow as the size of the herd increases. Supplementary income can also be earned from the poultry aspect of the enterprise.
19. It is also clear from the evidence and my site visit that a substantial commitment has already been made into the enterprise, including of the provision of a barn, fencing, services and the purchase of a breeding herd. Further investment is also imminent with an extension to the barn, having received prior approval to do so.
20. I am therefore satisfied that there is clear evidence of a firm intention and ability to develop the business. The appellant is also evidently a competent farmer with a commitment to animal welfare and providing a high quality product. There is also enough work for a full time worker and the size of the temporary accommodation is not excessive and is commensurate with the needs of the enterprise and the appellant and her daughter.
21. Overall I find that there is sufficient evidence to suggest that the enterprise has been planned on sound financial basis and that there is a very reasonable prospect of the business growing in the future. Having regard also to the level of investment already made I consider it appropriate that opportunity is given to properly test this with a temporary permission with a view to this being fully reviewed at the end of this period. This is a proportionate response and will allow the appellant sufficient opportunity to demonstrate whether or not the business is viable and that sufficient funds would be available to finance a mortgage.
22. On this basis I am satisfied that, as required by the Framework, special circumstances exist to justify an essential need for a temporary agricultural worker's dwelling at the appeal Farm. I am also satisfied that the first four criteria of LP Policy CC15 and LDP Policy H7 are met. In accordance with these policy expectations, conditions are attached to the planning permission limiting the consent to three years, reflecting the conclusions set out above, and restricting the occupation of the mobile home to an agricultural worker.

Sustainable development

23. It was agreed at the Hearing that the location of the appeal site is such that walking to Cold Norton would not be a safe proposition due to the lack of footways, street lighting and fast moving traffic on Fambridge Road. Cold Norton also has a limited range of services and facilities. The proposal would not therefore promote sustainable travel patterns from the site. However, this would be balanced by the benefits of the appellant living at the site and not having to travel there from a different location a number of times a day.

24. The proposal is also undoubtedly a rural enterprise that requires a rural location. Whilst the benefits to the vitality of the rural community are not precisely expressed, in my view the social and economic effects would be positive. Such matters weigh in favour of the proposal and accord with paragraph 28 of the Framework, which seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
25. I have also found there to be an essential need for a temporary agricultural dwelling at the appeal Farm, which justifies its isolated countryside location.

Character and appearance

26. The mobile home is positioned in front of the existing barn and its ridge height falls below the eaves height of the barn. Consequently the mobile home is fully screened in direct views from the north. From the east, views are largely restricted to glimpsed views through gaps in the hedge running alongside Fambridge Road. From the west, the mobile home can be seen across the open fields from the farm buildings.
27. The main public view of the mobile home is therefore in approaching views from the south along the elevated section of Fambridge Road. Given the relatively fast moving traffic at this point and lack of footways and the dark finish of the mobile home against the backdrop of the dark finish of the barn, views are not significant.
28. It was confirmed at the Hearing that the planting scheme prepared by the Woodland Trust is to begin implementation on 25 November 2016. However, it was agreed that this could not be reasonably secured by way of condition. Given also the timescales for effective maturity against a temporary application such as this, I have attached limited weight to any benefits arising.
29. Nevertheless, I find that the siting of the mobile home within the holding is satisfactory on a temporary basis and is designed to minimise the adverse impact on the character and appearance of the area. The proposal therefore complies with the final criterion of LP Policy CC15 and LDP Policy H7.
30. A temporary mobile home however, would not be appropriate as a permanent proposition, having regard to LP Policies BE1, S2, CC6, and CC11 and LDP Policy D1, which seek, amongst other matters, to protect, conserve and enhance the natural beauty, tranquillity, amenity and traditional quality of the landscape and the designated Coastal Zone.

Other matters

31. In reaching my decision I have had full regard to the objection received from Cold Norton Parish Council but the matters raised do not outweigh my above stated conclusions.

Conditions

32. The Council's suggested conditions were used as a basis for discussion at the hearing. As the development is in place, it is not necessary to impose a condition requiring the development to be completed in accordance with the approved plans.

33. In accordance with LP Policy CC15 and LDP Policy H7, conditions are necessary to restrict occupation of the mobile home to a person employed in agriculture and to secure the removal of the temporary accommodation after a period of three years to enable the viability of the enterprise to be properly assessed. For this reason, I am satisfied that the three years should commence from the date of my decision.
34. It was agreed at the hearing that the suggested condition removing permitted development rights was not necessary.
35. A condition relating to surface water and foul drainage is necessary to ensure appropriate provision of the same. However, having regard to the requirements of the Council's suggested Condition 5, its suggested Condition 6 is not necessary, nor is it reasonable as the timescales for the approval of any scheme submitted would not be within the control of the appellant.
36. As agreed, I have amended the wording of the conditions to ensure compliance with the provisions of paragraph 206 of the Framework.

Conclusion

37. For the reasons given above and having considered all matters raised at the Hearing, I conclude that the appeal should be allowed.

Richard S Jones

Inspector

Appearances

FOR THE APPELLANT:

Chris Tivey BSc (Hons) BPL MRTPI

Agent

Anne-Marie Pharoah

Appellant

FOR THE LOCAL PLANNING AUTHORITY

Matthew Leigh BA (Hons) MA MRTPI

Group Manger

Rebecca Greasley BSc PGDip

Principal Development Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Unaudited accounts dated 31 July 2016.
2. Letter from the RT Hon Gregg Clark MP dated 6 March 2016.