

Appeal Decision

Hearing held on 13 December 2016

Site visit made on 13 December 2016

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 25th January 2017

Appeal Ref: APP/D0121/W/16/3158146

Land off Wrington Road, Congresbury, Somerset BS49 5AR

- 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 Andrew Harraway against the decision of North Somerset Council.
 - The application Ref 16/P/0423/F, dated 27 January 2016, was refused by notice dated 7 June 2016.
 - The development proposed is for the construction of an agricultural worker's dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of an agricultural worker's dwelling house on land at Land off Wrington Road, Congresbury, Somerset BS49 5AR in accordance with the terms of the application, Ref 16/P/0423/F, dated 27 January 2016 and subject to the conditions in the Schedule at the end of this decision.

Application for costs

2. Prior to the Hearing an application for costs was made by Mr Andrew Harraway against North Somerset Council. However this application was formally withdrawn at the Hearing.

Preliminary Matters

3. The Council has confirmed that the North Somerset Core Strategy (CS) was adopted in April 2012; however following a legal challenge, Policy CS13 relating to the certainty of the overall housing requirement was remitted back to the Planning Inspectorate for re-examination. Policies CS6, CS14, CS19, CS28, CS30, CS31, CS32 and CS33 were also remitted given their dependency on the overall housing requirement for North Somerset. All other CS policies are adopted, including of relevance to this appeal, Policy CS5 (Landscape and the Historic Environment). Re-examination has occurred in two stages. To date, Policy CS13 setting out the housing requirement has been adopted; the other policies will be considered by the Council shortly.
 4. Since the Council's decision, the Council has adopted the North Somerset Sites and Policies Plan Part 1: Development Management Policies (DMP) which replaced saved policies of the Council's Replacement Local Plan (LP), except for LP Policy H/7. Thus in relation to the policies set out in the Council's decision
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notice, LP Policy H/9 has been superseded by DMP Policy DM46 and LP Policy RD/3 by DMP Policy DM12.

5. The appeal proposal is for an agricultural worker's dwelling house within the North Somerset Green Belt. Both main parties accept that the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Policy DM12 of DMP. I see no reason to disagree with that finding and have framed the main issues accordingly.
6. A signed Statement of Common Ground was agreed prior to the Hearing.

Main Issues

7. Given the agreement between the parties that the proposal would by definition be inappropriate development in the Green belt, the main issues in this case are: firstly, the effect of the proposal on the openness of the Green Belt; secondly, the effect on the character and appearance of the area, and; thirdly, whether the harm by reason of inappropriateness, and any other harm, are clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Background

8. The appeal site lies within a field off a private lane that leads from Wrington Road to a few properties at a higher level. The land forms part of Wrington Vale House, a farm and long established agricultural haulage business some 1.4 Km east of the village of Congesbury. The existing dwelling at this enterprise is currently occupied by a retired farmer and therefore not available to house a full time worker at this mixed rural enterprise. A paddock area closer to the main buildings at Wrington Vale House also includes a poultry house with the paddock area used for free range hens. The appellant has recently obtained planning permission for a stock building on land immediately adjoining the appeal site.

Policy Framework

9. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. As the parties agree, inappropriate development by definition is harmful to the Green Belt as described in DMP Policy DM12. All proposals in the Green Belt should be treated as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within the closed list of exceptions in either paragraph 89 or 90 of the Framework. The land for the agricultural building approved as an exception to paragraph 89 has been cleared and levelled in preparation for its construction.
10. DMP Policy DM46 specifically deals with new agricultural dwellings, which is defined as full time workers in agriculture, forestry or other land-based rural businesses. This policy is consistent with paragraph 55 of the Framework.
11. Paragraphs 28 and 55 of the Framework seek to support a prosperous rural economy and rural housing respectively. Paragraph 55 states that isolated homes in the countryside should be avoided unless there are special

circumstances including the essential need for a rural worker to live permanently at or near their place of work in the countryside.

12. In order to determine whether a need is both essential and permanent, it seems to me that it is not only necessary to establish whether there is a physical need for someone to be on-site at most times, for instance to care for livestock, but also whether the operation has reasonable long term prospects as a permanent rural enterprise. Whilst a 'financial test' of the type previously included in the now cancelled Planning Policy Statement 7: Sustainable Development in Rural Areas does not feature in the Framework, I see no reason to discount it as a potentially useful tool in assessing whether a permanent dwelling would be justified.
13. CS Policy CS5 and DMP Policy DM10 set out to protect and enhance the diversity, quality and distinctive qualities of the landscape of North Somerset identified in the North Somerset Landscape Character Assessment (NSLCA). This includes the landscape character area of 'rolling valley farmland', one of eleven character areas identified in North Somerset, by respecting the tranquillity of such areas and minimising landscape impact amongst other things.

Openness of the Green Belt

14. 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.
15. The Council is concerned that the introduction of a dwelling and associated paraphernalia would encroach on to the countryside and result in the loss of openness in the Green Belt.
16. Clearly, the appeal site comprises an open field. The development of a dwelling house would represent an encroachment onto this otherwise open field. This would also constitute a loss of openness in Green Belt terms.
17. The appellant indicates a willingness to accept various conditions in the event of the appeal being allowed, including that permitted development rights could be restricted to limit the adverse effect on the openness of the Green Belt.
18. I therefore conclude that whilst the proposed development would be harmful to the Green Belt by definition due to inappropriateness, it would also be harmful to the essential characteristics of Green Belts as defined in paragraph 79 of the Framework.
19. Paragraph 88 of the Framework states that local planning authorities should ensure that substantial weight is given to the harm to the Green Belt. Accordingly in this appeal, the harm arising from inappropriateness and the harm to the openness of the Green Belt attracts substantial weight against the proposal. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

Character and appearance

20. I am mindful of the landscape character of the surrounding countryside which is represented as rolling valley farmland typology. The policy requirement is to

protect and enhance such landscape character area through careful development management, including the sensitive siting and design of new buildings.

21. The site is screened from Wrington Road by roadside hedges. There are a small grouping of houses and a public house on the southern side of the road, which combine to create a somewhat cohesive if modest rural hamlet. Beyond the site's northern boundary, the land is in agricultural use and is open in character. However the appeal site is located at the bottom of this field and from private land and properties to the north the proposal would be viewed against the backdrop of existing properties forming this small hamlet along Wrington Road.
22. The proposed dwelling would be on a slightly lower level than the approved stock building and closer to the roadside houses. Given the choice of siting and existing and proposed built development, the appeal proposal would have a somewhat greater affinity with the rural hamlet particularly when viewed from elevated land to the north.
23. The proposal would see the construction of a traditionally designed cottage style dwelling incorporating traditional gable dormers with rendered walls and roofed in natural slate. In my view the proposal would not be out of keeping in this context. Furthermore, additional landscaping would be provided particularly along the northern boundary.
24. Overall, despite the development encroaching on to undeveloped land, because of the dwelling's proposed unobtrusive siting, limited size and bulk, it would not have significant prominence, dominance or impact. Moreover, it would be subservient to the agricultural building that appears to be under construction and would nestle between that building and the existing hamlet. Accordingly, the proposal would comply with Policy CS5 of the CS, DMP Policy DM10 and to guidance contained in the NSLCA .

Other considerations

25. The bullet points to DMP Policy DM46 establish criteria for assessing proposals for permanent dwellings for agricultural, forestry and other land-based rural businesses. The criteria requires there to be a clearly established functional need to live at or within the immediate area of their work and the enterprise concerned has been established for at least three years, has been profitable for at least one of them, is financially sound and has a clear prospect of remaining so.
26. The farm is a mixed lowland sheep and beef cattle farm of some 63.5 hectares in total with some 49 ha owned by the farm partners. In addition, a long established agricultural haulage business operates from the farm, together with a lairage facility. Stock is transported to market or abattoir but often requires to be kept at the lairage facility at the farm, which requires appropriate animal welfare and husbandry. Buildings allow separation of stock for biosecurity reasons. At the hearing, the Council conceded that the lairage facility represents a form of land-based activities that would be supported under DMP Policy DM46; however the haulage activities would not.
27. The existing farmhouse at Wrington Vale House is occupied by a retired agricultural worker, Mrs D Harraway, who remains a partner in the business

along with her two sons, namely, Mr A Harraway, who operates the farming enterprise and manages the lairage facility and haulage business and Mr R Harraway who currently works part time on the farm. The road haulage element employs two full time drivers together with part time staff to operate the smaller vehicles. The enterprise also performs a function as a depository and transport facility for wool.

28. Details of stocking levels have been provided based on the increased levels that will follow the completion of the new livestock building in February 2017. There was little dispute at the hearing in relation to the labour requirements for the two land based elements of the enterprise, which amounted to some 1.38 full time equivalents increasing to some 1.74 due to the high standard of husbandry and management, together with achieving premium sale prices at market.
29. There was some disagreement that the assessment should be based on the parcels of land that are under the control of the appellant; it was suggested that the short term tenanted land should be discounted. However, I accept the appellant's view that this enterprise has been operating successfully on the basis of the present land tenure arrangements since the early 1960s and that lowland sheep farms very often depend on short term tenancy arrangements.
30. Whatever the exact labour requirement, I am in no doubt that the livestock and lairage operations are intense activities. I am satisfied from what I observed that the nature of this enterprise necessarily involves long working hours. I accept the appellant's submissions that it is not feasible for Mr A Harraway to live off-site, particularly once the new livestock building is fully operational early next year. Attending to sucklers, lambing and calving, monitoring the condition and welfare of permanent and transient livestock and attending to emergencies would be onerous activities for someone not living on site.
31. I am satisfied that there is a need for a stock keeper to be available at most times, both day and night to ensure essential supervision and proper care of the livestock. To allow the suckler herd and store cattle to expand and remain healthy, the animals require care and attention. The appellant's veterinary surgeon in support explains that livestock will require attention at short notice, necessitating care to deal with complications that may arise. Any losses can have significant financial consequences. For this reason, a strong case has been made that Mr A. Harraway residing within sight and sound of the livestock is crucial. I accept that Mrs Harraway is no longer able to provide this support but given the location of the new building, the farmhouse would not be conveniently located to provide immediate response in any event.
32. Moreover, the planned expansion of the store cattle herd requiring the new building that is underway will reinforce the need for Mr A Harraway being readily available at most times throughout the year. The building is separated slightly from the main farm complex with its own access onto Wrington Road. An additional dwelling at that location would greatly assist in the expansion of the farm, and accord with the rural objectives of the Framework.
33. The Council pointed out that a functional need for accommodation depends on the needs of the enterprise and not the personal preferences or circumstances of the individuals concerned. The recently adopted DMP Policy DM46 in the event of planning permission being granted for such proposals requires a condition to be attached limiting occupation to the rural workers and their

- dependents. Where a second dwelling is permitted on a holding, a condition would be imposed on any unrestricted dwelling to similarly limit its occupation.
34. I accept that there are no opportunities to bring about a reassessment of living arrangements at the existing dwelling and it would be unreasonable to do so. In my view, given the ownership of the existing property, a condition restricting its occupation to an agricultural worker would also be out of the question as it would not be in the control of the appellant to bring this about.
35. A further issue is whether any functional need could be fulfilled by other accommodation. Having inspected the existing farm buildings, I accept that no other suitable buildings on the farm that could be converted without compromising its operations. Whilst the Council has pointed out properties for sale in the locality, none of these are in 'direct sight and sound' of the farm complex or site of the new livestock building and second access.
36. Taking the functional requirements of the enterprise overall, and having regard to the submission of the parties, I conclude there is a functional need for an additional dwelling at this location and that this need will increase upon expansion of the business early in 2017.
37. Turning to the financial viability of the enterprise, the appellant has provided financial data in support of the appeal. From this data it is evident that the farm business taken as a whole has been profitable for each of the last three years, is currently financially sound and has prospects for remaining so, particularly given the expansion plans. Given the Council's positive position with regards to the lairage facility, which I agree, the net margin after rent and finance is calculated to be £23,570 although actual figures are significantly in excess of these, averaging £45,341 during the period 2013-16 due in the main to exceptional stock sales.
38. At the hearing, it was accepted by the parties that the projected figures for the farming enterprise as opposed to the lairage was dependent to a significant extent on the provision of the new agricultural building. The appellant agreed that on the basis of this dependency, were I in a position to allow this appeal, a planning condition that requires the bringing of the agricultural building into operation prior to commencement of works relating to the new dwelling would be necessary.
39. An interested party raises concerns that there is insufficient income to support the erection of a separate dwelling at current bill costs and resulting capital and interest repayments. However, based on the actual accounts supplied rather than forecasts, I see no reason to doubt the financial viability of the business or the potential to fund the construction of a dwelling. The issue of the Basic Payment Subsidy potentially ending in 2019 thereby resulting in a reduction in profit levels cannot reasonably be considered as an absolute at this juncture.
40. Having regard to the above, I conclude that the enterprise is financially viable and DMP Policy DM46 is satisfied. It would also comply with DMP Policy DM46 in respect of limiting the floor space to less than 150 sqm.

Overall Conclusions

41. The Council has acknowledged that based upon the additional financial evidence, the profitability of the enterprise is on an upward trend. In the light of evidence before me in terms of the financial and functional considerations in

this case, including the updated information presented to me at the Hearing together with what I observed on site in terms of the expansion of the business by the early completion of the new livestock building, I consider the other considerations set out above, when taken together, are sufficient to clearly outweigh the harm by reason of inappropriateness in the Green Belt and any other harm. Therefore very special circumstances to justify the proposed development do exist. Accordingly the proposal would not conflict with the Framework or DMP Policy DM12.

Conditions

42. The main parties have agreed a statement of common ground containing six conditions. I have imposed a condition that sets out the timeframe for implementation of the development together with one that specifies the approved plans in the interest of providing certainty. Following discussion at the Hearing, a modified wording that requires the Council's prior approval of a landscaping scheme together with its implementation is necessary in the interests of preserving and enhancing the character and appearance of the area. Details of all external materials to be submitted prior to commencement together with implementation are necessary in the interests of character and appearance. A condition is also necessary that withdraws permitted development rights for extensions and ancillary buildings within the curtilage so that future harm to the openness of the Green Belt is avoided. Given what I have read, I also consider it necessary to impose a condition requiring development to proceed in accordance with the Ecological Appraisal report in the interests of the biodiversity of the area.
43. A condition restricting the occupancy of the dwelling to an agricultural or forestry worker is necessary in accordance with national and local policy to prevent unrestricted housing in the open countryside. As discussed at the hearing I have imposed a condition to ensure that development does not commence before the livestock building is completed. This is because the long term financial viability of the unit is dependent on expansion of the farming element.

Conclusions

44. I have considered all of the matters raised and for the reasons set out above, the appeal succeeds.

Gareth W Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, garages or outbuildings shall be constructed or erected on the site other than those expressly authorised by this permission.
- 4) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Development shall not commence until the agricultural building on the adjoining site and subject to planning permission Ref 15/P/0204/F dated 8 April 2015 has been completed and is available for use for its intended agricultural purpose.
- 8) Development shall proceed in accordance with the ecological mitigation enhancement measures detailed in section 4 of the Extended Phase 1 Habitat Survey report dated January 2015 (Integrated Ecological Solutions Ltd) unless otherwise agreed in writing by the local planning authority.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No. 1496/OS-A; Block Plan 1496/1 Rev A; Elevations Plan – Proposed Drawing No. 1496/2 and Site Section Plan.

APPEARANCES

FOR THE APPELLANT:

Mr Mark Willis	of Willis & Co
Mr William Peck	of Lawrence Gould
Mr Andrew Harraway	Appellant
Mr Will Harraway	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Ms Judith Porter	Applications Manager
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THIRD PARTIES:

Mr Matthew Tucker BA (Hons) MPLAN MRTPI	of Savills acting for Mrs Gold
Mr Ashley Lilley	The Wood, Congresbury.

DOCUMENTS SUBMITTED AT THE HEARING:

1. Financial Assessment (Standard Figures) – 2016
2. Revised Site Location Plan – 1496/OS-A
3. Letter of support: Ms S Collins
4. Letter of support: Mr A Bell
5. Letter of support: Mr H Collins
6. Letter of support: Mr R Jones
7. Letter of support: Mr K Richards
8. Letter of support: Mr D. Perry
9. Letter of support: Mr P Neve MSc Dip Arch