
Appeal Decision

Hearing held on 10 January 2017

Site visit made on 10 January 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 03 February 2017

Appeal Ref: APP/P1615/W/16/3157611

Land at Rudford Farm, Whitehall Lane, Rudford, Gloucestershire GL2 8ED

- 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 Ethical Fruit Company against the decision of Forest of Dean District Council.
 - The application Ref P0447/16/FUL, dated 4 April 2016, was refused by a notice dated 8 June 2016.
 - The development proposed is the retention of a mobile home for temporary staff accommodation (Revised submission).
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Decision

1. The appeal is dismissed.

Background

2. Rudford Farm is an organic apple orchard which has been in operation since 2008. The 16.2 hectares site has been occupied by the Ethical Fruit Company since 2014 under a 17 year Farm Business Tenancy. It is situated in the countryside between Gloucester and Tibberton.
3. The orchard was established by the previous tenants, Sheepdove Organic Fruit Limited, and in March 2010 planning permission, P0563/09/OUT was granted for the "Temporary siting of a mobile home for an agricultural worker." The permission was granted subject to a condition that required the mobile home to be removed, and the residential use of the site to be discontinued on or before three years from the date of the permission.
4. In June 2014 the Council refused planning permission, P0511/14/FUL for the retention of the mobile home on the land. An enforcement notice was subsequently issued in July 2014 which required the residential use of the mobile home to cease, for it to be removed from the site, and the land restored to its former condition. In March 2015 an appeal¹ against the enforcement notice was dismissed and the enforcement notice upheld. The Inspector found that the retention of the mobile home was not justified on agricultural grounds and that its continued presence would cause harm to the character and appearance of the area.

¹ APP/P1615/C/14/2224080

5. The application the subject of this appeal seeks to retain the mobile home on the site permanently for its sole occupation by seasonal workers for nine months of the year only (March through to the end of November).

Main Issues

6. The main issues in this case are:

- Whether or not the retention of the mobile home permanently to house seasonal workers, is essential to the functioning of agricultural activities on this holding; and
- The effect on the character and appearance of the area.

Reasons

Planning Policy

7. The development plan, in so far as it affects the appeal proposals, is the Forest of Dean District Council Core Strategy which was adopted in 2012 (CS). Policy CSP.4 of the CS seeks to ensure that new housing is delivered within settlement boundaries to promote thriving sustainable communities and facilitate regeneration. Outside settlement boundaries it provides strict control on the provision of residential development unless special circumstances exist.
8. The Council is working on an Allocations Plan (AP), and during the course of this appeal the Council has received the Inspector's Interim Findings following examination hearings for the Council's AP. The Council is currently consulting on proposed further changes to the AP prior to finalising the proposed Main Modifications. The Inspector's Interim Findings support the Council's approach to the sustainable location of development and settlement hierarchy, and although it is proposed to modify and amalgamate Policy AP4 – Design of Development, and Policy AP5 – Style and Materials, the general thrust of these policies would remain intact. I therefore give Policies AP1, AP4 and AP5 of the AP moderate weight.
9. Paragraph 55 of the National Planning Policy Framework (the Framework) states that local planning authorities should avoid isolated homes in the countryside unless there are special circumstances. Such circumstances include the essential need for a rural worker to live permanently at or near their place of work in the countryside. Both parties accept that a new home in this location would represent an isolated location in the countryside, and it is further agreed that there is not an essential need for a rural worker to live permanently on the site. Differences arise over the need to retain the mobile home on the site permanently for its occupation by seasonal workers for nine months of the year.

Whether or not the retention of the mobile home permanently to house seasonal workers, is essential to the functioning of agricultural activities on this holding.

10. The Ethical Fruit Company is managed full time by Mr M Thorn and his father who reside a short commute away from the site. The mobile home is currently occupied by three seasonal key workers who are employed part time on the farm from March through to the end of November. During that time their hours of employment vary considerably. However, it was heard that previously up to 15 weeks of full time work has been available for between two and three key workers, predominantly during March – Mid-May to undertake pruning, frost prevention and removing mildew from the trees, and also throughout the

picking season, Mid-August through to November. During June and July available working hours are less consistent. The picking season however, also provides seasonal work a total of 12-15 workers, and in previous seasons the mobile home has provided accommodation for up to nine pickers, with the remainder of the temporary staff being provided by an employment agency and brought daily to Rudford Farm.

11. The functional and employment needs of Rudford Farm have not altered since the appeal decision¹ in 2015. At this time it was found by the Inspector that there was not a functional need for a permanent presence on the site, other than possibly a seasonal requirement during the 6-week blossom period to help prevent frost. The Appellant does not dispute this, and it is further agreed by both parties that seasonal agricultural workers accommodation could be provided on site for nine months a year in caravans through the provisions of Part 5 (Class A) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, and subject to the adhering to the conditions of that Class.
12. It is the Appellant's case that it is impractical and costly to remove the mobile home for the three month period when it is not in use, and furthermore that to be able to provide a good standard of secure on-site accommodation for the seasonal key workers for the nine month period, is reasonably necessary to the operation of the business.
13. The mobile home comprises three bedrooms, a living and kitchen area and bathroom. It is connected to a septic tank and oil tank and has mains electricity and water, fed via a bore hole. Skirts have been provided around the bottom edge of the home to provide some protection from damp and inclement conditions. Due to the scale and nature of the mobile home I accept that it would not be possible to tow it on and off the site. Its removal would require it to be disconnected from services, dismantled, transported off site and then placed in storage. The Appellant provided an estimate of these costs² at the Hearing, which in total amount to approximately £10,000. However, this is the only estimate provided, and whilst I have no doubt that the costs involved to undertake these works would be relatively expensive, due to the late submission of this evidence, no opportunity was available for all parties to verify the costs. I am therefore unable to give this estimate more than limited weight.
14. Moreover, the Appellant has not provided any substantive evidence to demonstrate how these costs would affect the viability of the business. Nor have any costs been provided to refute the Council's contention that a more conventional static caravan(s), which could be towed away easily when not required on the site, would not provide suitable or economic accommodation. I recognise that it is convenient to retain the existing mobile home on site and that it provides suitable and flexible accommodation for key seasonal workers. However, although I noted on my site visit that the mobile home provided relatively spacious accommodation, it is still temporary in its form and consequently has been susceptible to weathering and the damp conditions during the winter months.

² John Bibbings Building Contractor, dated 14 December 2014 & O'Leary Caravans Limited, dated 13 December 2016.

15. It was clear from my visit to the Rudford Farm, and from the evidence provided during the Hearing, that the Appellant is committed to achieving a successful business, and passionate about the organic apple orchard. I have also taken into consideration that this is a pioneering venture and that the Appellant does not want to add additional costs to the business by investing in alternative temporary accommodation. However, it is agreed that there is only a need for a permanent on-site presence during the blossom period and moreover, during this period the need for the overnight blowers to prevent frost is often no more than five times a season. Consequently, given the ability to predict the frost by technology, it seems to me that a touring caravan, for example, would provide suitable accommodation for this occasional event, and more permanent living accommodation could be provided off-site.
16. I have taken into consideration the Appellant's concern that their key workers are primarily migrants who would find it difficult and costly to secure a short term tenancy. I have also taken into consideration the examples which have been provided by the Appellant of properties for rent in the immediate locality and the costs associated with them. The site lies approximately seven kilometres from Gloucester, and it is agreed that there is a good local bus service which stops within walking distance of the site. It seems to me that there is more likely to be a greater range of more affordable accommodation within the Gloucester area which does not appear to have been investigated. Furthermore, given that the orchard does not provide full time work for the key migrant workers for the majority of the year, accommodation within the city may provide greater opportunities to meet their additional employment needs.
17. Seasonal staff employed for picking is provided by an agency that transport the pickers on a daily basis to the site. There does not seem to be a concern that the agency would not be able to continue to provide suitable staff, although the Appellant expressed concern regarding the reliability of agency staff to undertake their duties in a manner which is required for producing organic products. However, this consideration is likely to be a risk with all seasonal staff employed who may need some initial supervision, and therefore I give this consideration limited weight.
18. The Rural Planning Appraisal³ prepared on behalf of the Council concluded that, *'unless there are overriding planning reasons against the structure being sited in this location during the months of November through to March, then it is my view, from a practical perspective, that it is reasonably necessary for the business to be able to station the mobile home throughout the year, whilst the seasonal need continues...'*. As set out above, Paragraph 55 of the Framework makes it clear that local planning authorities should avoid isolated homes in the countryside unless there are special circumstances. It is not disputed that the business is profitable, and I understand that the Appellant's current arrangements enable him to effectively manage the farm and reinvest in this relatively new venture. However, I have not seen, nor have I been provided with any substantive evidence to convince me that a more conventional caravan, that could be towed away when not in use, would not provide a similar standard of accommodation which would be suitable for key seasonal workers. Furthermore, it has not been demonstrated that the provision of such alternative accommodation would affect the functioning or viability of the enterprise.

³ Rural Planning Appraisal, Fox Rural, Planning & Land Management, 27 May 2016.

19. Although it may be practical and convenient for the mobile home to be retained on the site permanently to provide seasonal workers accommodation, these are not special circumstances as set out in the Framework. Furthermore, I have not been made aware of any other development plan policy which would provide for permanent seasonal workers accommodation.
20. I therefore conclude that the appeal proposal to retain the mobile home permanently to house seasonal workers is not essential to the functioning of agricultural activities on this holding. The proposal would not therefore accord with the development plan, and in particular would conflict with Policy CSP.4 of the adopted Forest of Dean CS and Policy AP1 of the AP, which are consistent with Paragraph 55 of the Framework, the aims of which are set out above.

Character and appearance

21. Rudford Farm is situated in the Severn Vale Character Area⁴ which is described as a deeply rural area where there are few large settlements, and isolated farms and scattered houses are primarily of red brick and half-timbered construction. The previous Inspector concluded that the mobile home '*has little visual affinity with the scatter of buildings in this rural landscape.*' The Appellant agrees that this Decision is a material consideration in the determination of this appeal and further agrees that the mobile home has not materially changed in its appearance since 2015.
22. At the time of my visit the mobile home was clearly visible from Whitehall Lane, and I agree with the previous Inspector that its design and appearance is not reflective of existing housing development in this part of the countryside. Although I recognise that Whitehall Lane is not a through road, and that views of the mobile home are only transient from neighbouring public rights of way, it remains conspicuous by reason of its stark rendered walls and red pantile roof. It appears as a discordant building conflicting sharply with the traditional form of housing in this part of the countryside.
23. Furthermore, the mobile home is clearly more visible from Whitehall Lane during the winter months when the leaves are off the trees, and consequently it is most harmful to the character and appearance of the area at the time when there is no demonstrable need for any seasonal workers accommodation on the site. Moreover, due to its temporary form and construction, its appearance is deteriorating due to permanent exposure to damp winter weather conditions. The Appellant's suggestion of additional planting which could be secured by condition would not provide adequate mitigation for the harm I have identified to the character and appearance of the area.
24. I conclude that the retention of the mobile home permanently would cause harm to the character and appearance of the area. The proposal would not therefore accord with the development plan, and in particular I find conflict with Policy CSP.1 of the CS which is consistent with one of the Framework's Core Planning Principles of protecting the countryside. I also find conflict with Policies AP4 and AP5 of the AP which are consistent with Section 7 of the Framework in seeking to promote good design which takes account of local character.

⁴ Landscape Character Assessment: Gloucestershire and Forest of Dean, adopted 2002.

Other Matters

25. The Appellant has drawn my attention to a number of other decisions where permission has been granted for seasonal worker's accommodation within the District and neighbouring local authorities. However, I do not know the individual circumstances or site characteristics of these other examples to enable me to determine whether or not they are directly comparable. Furthermore, in this case it is necessary to demonstrate that special circumstances exist, and consequently I have determined this case on its own merits.
26. The Appellant argued at the Hearing that the Council's grant of a temporary planning permission for a dwelling on the site was an indication that there was likely to be a functional need for the enterprise to require on site living accommodation. However, the planning permission was granted for a three year period only, and at the time that the Appellant took on the Business Tenancy the permission had expired and planning permission had been subsequently refused to retain the mobile home for permanent occupation. I therefore give this consideration limited weight.

Overall Conclusions

27. The Framework makes it clear that isolated new homes in the countryside should be avoided unless there are special circumstances. There is no dispute that it is not essential for a worker to live permanently at or near their place of work and it has not been demonstrated that the retention of the mobile home permanently to house seasonal workers is essential to the functioning of agricultural activities on this holding. I therefore conclude that there are no special circumstances, and the proposed development would be contrary to both the Framework and the provisions of the development plan as set out above.
28. For the reasons give above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Griffin	Hunter Page Planning
Mr M Thorn	Ethical Fruit Company
Mrs V Drewett	Kernon Countryside Consultants Limited

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Colegate	Forest of Dean District Council
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INTERESTED PERSONS:

Mrs J Horne	Ward Councillor, Forest of Dean District Council
Mr Bob Wolfson	Chairman of Rudford and Highleadon Parish Council
Mr S Salisbury	Parish Councillor and Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's letter dated 7 December 2016 confirming the time, date and venue of the Hearing.
2. Signed Statement of Common Ground, dated 6/1/17.
3. Quote from John Bibbings Building Contractor to disconnect and reconnect services to the mobile home, dated 14 December 2014, supplied by the Appellant.
4. Quote from O'Leary Caravans Limited to dismantle, transport and store the mobile home, dated 13 December 2016, supplied by the Appellant.
5. Newent to Gloucester Bus Timetable, Supplied by the Council.