



Appeal Decision

Hearing Held on 12 July 2017

Site visit made on 12 July 2017

by R J Jackson BA MPhil DMS MRTPI MCMI

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

Decision date: 25 July 2017

Appeal Ref: APP/C1625/W/17/3171262

Court Farm, Beards Mill, Stanley Downton, Stonehouse GL10 3QZ

- 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 Alan Smith against the decision of Stroud District Council.
 - The application Ref S.16/2558/FUL, dated 11 November 2016, was refused by notice dated 20 December 2016.
 - The development proposed is described as "retention of farm works accommodation building".
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Decision

1. The appeal is allowed and planning permission is granted for the making of a material change of use of land to use as a residential caravan site for an agricultural worker at Court Farm, Beards Mill, Stanley Downton, Stonehouse GL10 3QZ in accordance with the terms of the application, Ref S.16/2558/FUL, dated 11 November 2016, subject to the following conditions:
 - 1) The occupation of the development shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The use hereby permitted shall cease and any caravan brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 2 months of the date of this decision schemes for:
 - (a) flood plain compensation and an evacuation plan; and
 - (b) for the disposal of surface water and foul sewage, including an assessment into the potential for disposing of any surface water by means of a sustainable drainage system;shall have been submitted for the written approval of the local planning authority and the schemes shall include a timetable for their implementation.
 - ii) If within 10 months of the date of this decision the local planning authority refuse to approve either scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
- iv) The approved schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Application for costs

- 2. At the Hearing an application for costs was made by Mr Alan Smith against Stroud District Council. This application is the subject of a separate Decision.

Procedural matters

- 3. The development has taken place and I was able to inspect it at the site visit.
- 4. I have set out in the heading the description of the proposal as set out on the application form. At the Hearing I noted that "retention" was not an act of "development" as defined in the Town and Country Planning Act 1990 (as amended). I also raised the possibility that the proposal might not be a building but rather a "caravan" as defined in Section 13 of the Caravan Sites Act 1968 (as amended).
- 5. In discussions on site as part of the Hearing the appellant confirmed that the development had arrived on site in two parts that were then bolted together. Although there was a front veranda this was a separate item and did not form part of the development. Having measured it all parties concurred that the development should more accurately be described as "the making of a material change of use of land to use as a residential caravan site for an agricultural worker". The 'red line' of the application site was clearly defined and any planning permission would only relate to this land. As all parties were in agreement of this I am satisfied that the description in the formal decision can be amended without injustice to any party.

Main Issues

- 6. The main issues are:
 - whether there is an essential need for residential accommodation to accommodate a rural worker; and
 - whether the proposal is appropriately located in terms of flood risk.

Reasons

Essential Need

- 7. The appeal site is located in the countryside outside the settlement of Stonehouse. Policy CP15 of the Stroud District Local Plan November 2015 (the Local Plan) indicates that additional residential accommodation will normally not be permitted in such a location except if it complies with one of a number

- of criteria. This includes where it is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the District. If there is compliance with this criterion there are also a number of additional criteria that need to be met.
8. The parties were in agreement that the proposal met all these additional criteria; the disagreement was whether there was an essential need for the accommodation.
 9. Court Farm consists of an agricultural holding of approximately 55 ha. It is part of a wider agricultural land holding which includes Part Street Farm at Nympsfield but the main parties confirmed in the Statement of Common Ground that they are separate agricultural holdings and the agricultural activities are separate. At Court Farm the agricultural activities are a breeding herd of Aberdeen Angus cattle made up of around 40 cows with about 12 heifers ready to join and bulls in the appellant's ownership.
 10. The Council confirmed that it considered that there was a functional need for an experienced stockperson to be within walking distance from the cows and that there was a need for a full-time equivalent employment at the site. The dispute was whether it was essential for that person to live on site or whether somebody living off-site and visiting on a daily basis could undertake appropriate supervision.
 11. It was agreed that the main need for supervision on site arose at the time of calving and shortly thereafter. The Council was of the view that such a need was, or could be made, seasonal and thus could be accommodated by using permitted development rights which allow for the provision of a residential caravan on a seasonal basis. The appellant took the view that the need was year round.
 12. From the evidence I read and heard at the Hearing it is evident that there are different regimes for calving with some operations being seasonal and others operating on an, essentially, year round basis. The current practice at Court Farm was for calving to take place throughout year. For example in 2014 calving took place over 9 months of the year, in 2015 over 6 months and in 2016 over 7 months, not being restricted to a certain period in any year.
 13. It was agreed that calves and their mothers would need particular attention in the period after calving although there was some dispute as to the length of this. From what I heard, I am satisfied that close supervision is needed for around a month after birth and that remote supervision, for example by CCTV, would not be sufficient, particularly as the cattle are kept in the fields for the vast majority of the year, only being accommodated within the existing farm buildings on site in the middle of winter.
 14. To describe calving as taking place "over" a month is a slight misnomer, what would be more accurately described would be that it takes place "in" a month. In addition, it would be possible to have a single calf born each month extending the breeding season to the whole year when there was no functional need, beyond this activity, for an on-site presence throughout the year. In light of this to prevent abuse of the policies in the development plan relating to development in the countryside it is necessary to ensure that any justification is robust.

15. The appellant disputed whether it was appropriate for the planning system to 'dictate' to him, as he saw it, how the agricultural operations were to take place. However, it seems to me that if it is reasonable for the planning system to put certain limits on any activity and provided that there are no unjustifiable and disproportionate burdens on a business that allows it to operate in an appropriate location, then it is for the business to operate within those constraints.
16. There was some discussion at the Hearing over whether it would be practical for seasonal calving to be introduced, and I am satisfied that this would be possible, but would bring with it other difficulties. Principal among this is that the cows are serviced by the bulls on site which means that pregnancies sometimes do not occur, and that agglomerations of births can lead to practical difficulties at times of birthing; year round calving spreads this out. In addition, and very importantly, the single breed with very similar appearance means that even an experienced stockperson is unable to identify individuals, so that they are unable to ensure each and every animal in a herd of this size is checked at the beginning and end of the day, and thus unforeseen problems may occur during non-working hours.
17. Overall, although the operation has recently been affected by an outbreak of TB, I am satisfied that given the stocking levels and there is an agreed workload for a full-time stockperson, there is an essential need for an on-site presence to ensure the proper husbandry of the cattle. This essential need takes place throughout the year and it would be unreasonable to require calving patterns to be introduced to reduce this to a seasonal need as an agricultural use is entirely appropriate within a countryside location.
18. As such there is an essential need for residential accommodation on site to accommodate a rural worker. Consequently the proposal would comply with Policy CP15 of the Local Plan as set out above. It would also comply with paragraph 55 of the National Planning Policy Framework (the Framework) that indicates that while new isolated homes should be avoided unless there are special circumstances, one such special circumstance is where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

Flood Risk

19. The site is located in Flood Zone 3 on the maps produced by the Environment Agency based on the likelihood of fluvial flooding. The evidence indicates that the site is located in Flood Zone 3a; that is outside the functional floodplain of the River Frome which is approximately 200 m away. Although the Council did not refuse the application on the basis of flood risk the Environment Agency at both the application and appeal stage wrote objecting to the proposal on this basis.
20. Following additional information in the form of a site-specific flood risk assessment (FRA) submitted by the appellant the Environment Agency withdrew its objection. However, in doing so it indicated that it was for the determining body, which is me at this appeal stage, to be satisfied that the proposal meets the Sequential and Exception Tests set out in the Framework and expanded upon in the national Planning Practice Guidance (the PPG).

21. The Sequential Test indicates that the most vulnerable development should be located in areas of lowest risk unless there are overriding reasons to prefer a different location.
22. Caravans are indicated to be "highly vulnerable" under the flood risk vulnerability classification set out in the PPG¹ and thus, following the flood risk vulnerability and flood zone 'compatibility' table, development should not be permitted. However, each case needs to be considered on its own individual merits and while the advice in the PPG is of significant weight it cannot, of itself, be determinative.
23. It is also the case that while it was only at the Hearing that the nature of the proposal was clarified as being for a caravan site, all parties, including the Environment Agency, have had the opportunity of examining the situation on site. They were all satisfied that subject to the Sequential and Exception Tests that the development was acceptable in principle on flood risk grounds.
24. The site for the caravan is located in close proximity to the existing farm buildings and therefore the effect on the overall character and appearance of the area is minimised as development is located together. Moving the caravan so that it would be located in Flood Zone 2 would lead to the visual prominence being increased and the adjacent field being fragmented. On this basis I am satisfied that there are overriding reasons for the current location and thus the Sequential Test is passed.
25. Moving on to the Exception Test, it is necessary to show that wider sustainability benefits to the community outweigh flood risk, and the development is appropriately flood resilient and resistant, including safe access and escape routes, so that any residual risk can be safely managed, including by emergency planning. In addition sustainable drainage systems (SuDS) should be used.
26. Relating to the first part of the test I am satisfied that as the need for accommodation for an agricultural worker has been demonstrated it has also been shown that the proposal would score positively against the aims of Local Plan policies.
27. The FRA shows that the floor level of the caravan is located above both the 1 in 100 year plus Climate Change and 1 in 1000 year flood events, but the area outside would be subject to flooding. The modelled events, however, show that water would not be flowing at a significant rate or depth whereby those seeking to access or egress the caravan to get to safety would be at an unacceptable risk, including in an emergency.
28. Although the appellant had not made contact with the Council's Emergency Planners the Council indicated at the Hearing that it was satisfied that appropriate arrangements could be put in place to ensure that anyone within the caravan was evacuated if necessary. This could be secured by condition, as could be compensatory works for the physical effect on the flood plain. I am satisfied that these compensatory works, which would be likely to consist of 'scrapes', would not be out of keeping with the character and appearance of the area.

¹ Paragraph reference ID: 7-066-20140306

29. The reason caravans are designated as “highly vulnerable” when dwellings are “more vulnerable” relates to dangers that the caravan may be moved by floodwaters. Having looked at the evidence in relation to water depth and flow I am satisfied that the risk of this occurring is very low. Although the PPG indicates that permission should be refused, I am satisfied in the exceptional circumstances of this case, particularly noting that none of the responsible bodies objected to the proposal on this ground, that there are overriding reasons why planning permission should not be resisted on flood risk grounds.
30. The proposal would therefore not result in an unacceptable flood risk and would therefore comply with paragraph 103 of the Framework dealing with flood risk.

Conditions

31. I have considered the conditions put forward by the Council against the requirements of the PPG and the Framework.
32. As the accommodation is only justified on the basis of an essential need for a rural worker the occupancy needs to be restricted by condition. The term ‘rural worker’ of itself is too vague to be precise or enforceable. As the accommodation is justified on the basis of agricultural need restricting the occupation to those employed or last employed in agriculture, a dependent or survivor of same, would be appropriate. Due to the limited size of the application site there is no need to limit the number of caravans.
33. In order to ensure that risks to the occupiers of the development of flooding are minimised details of a scheme of flood plain compensation and an evacuation plan need to be submitted, approved and implemented. Although the condition discussed at the Hearing used the simplified form, in view of my findings as to the nature of the development and its relation to flood risk, this needs to be completed or the development removed. I am therefore imposing a more restrictive condition to ensure that this occurs. Similarly, a condition to ensure details of surface water (a SuDS scheme) and foul sewage disposal needs to be submitted, agreed and implemented.

Conclusion

34. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Susan Hughes BA Hons MA PGDip MRTPI	Land & Mineral Management
Ms Lucy Binnie BSc (Hons) MRTPI	Land & Mineral Management
Mr Alan Smith	Appellant
Ms Rebecca Smith	Daughter of Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jamie Cooper	Principal Planner Appeals and Enforcement, Stroud District Council
Mr Robert Fox BSc (Hons) MRICS FAAV	Fox Rural Planning and Land Management

HEARING DOCUMENT

HD1 Consolidated bundle of documents submitted on behalf of appellant