The Planning Inspectorate

Appeal Decision

Hearing Held on 20 September 2017

Site visit made on 20 September 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 13th October 2017

Appeal Ref: APP/H1840/W/17/3174675
Eastfield, Wadborough Road, Kempsey WR5 3QH

- 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 Melvin Rowberry against the decision of Wychavon District Council.
- The application Ref W/16/01648/PN, dated 28 June 2016, was refused by notice dated 24 October 2016.
- The development proposed is the construction of 3No stock lakes together with provision of 4No "glamps" and the temporary permission of a mobile home for the use of the fishery manager.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether, having regard to national and local planning policies that seek to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work.

Reasons

3. In supporting sustainable development, the National Planning Policy Framework (the Framework) seeks to avoid new isolated homes in the countryside other than in particular circumstances. These are set out in paragraph 55 of the Framework and include reference to situations where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

4. Similarly, Policy SWDP 2 of the South Worcestershire Development Plan (the DP) 2016 strictly controls development in the open countryside, limiting it to specific development, including dwellings for rural workers. Policy SWDP 19 of the DP sets out the essential need requirements that proposals for rural enterprise-related dwellings need to satisfy, which includes the functional and economic tests contained in Annex G of the DP.

5. During the Hearing the Council confirmed that the economic test has been satisfied and that the only matter in dispute is whether there is a functional need for the proposed mobile home. In addition, the Council also confirmed that they have no objection to the proposed stock lakes or the glamps.

Based on the evidence presented to me, both in written and oral form, I find no reason to disagree with this finding.

6. The question was raised during the Hearing as to whether these non-contentious elements of the proposal could be severable from the mobile home. The Council were satisfied that they could. However, the appellant confirmed that they could not be severable as they could only be implemented if a manager was living on the site to operate/manage them and therefore the proposal should be considered in its entirety. I have considered the appeal on this basis.

7. The proposed stock lakes would enable the restocking of the fishing lakes. By breeding the fish on site it would reduce the risk of introducing diseases and bacteria that could harm the existing stock and there would be more certainty of the general health and quality of the fish. The population density of fish in the stock lakes is far greater than in the fishing lakes. As a result, they require specialised equipment, such as aerators, to ensure that they provide a suitable environment.

8. The evidence submitted in the Fisheries Development Report prepared by Dr Bruno Broughton, a Fisheries Management Consultant, dated 19 July 2014 and the additional information to it, dated 4 June 2016, explains that the stock lakes would require regular feeding and monitoring, in particular ensuring that oxygen levels are sufficient. This monitoring is an automated process. Should the aerators fail, oxygen levels would fall which could result in the loss of the fish, which could have a significant financial impact on the business.

9. An alarm system is generally used should oxygen levels in the lakes fall, which could indicate that the aerators have failed. The system would provide a number of warnings as the oxygen levels in the lakes fall, with the final level being an automated telephone alarm to a designated responder. Dr Bruno Broughton identifies a small window of opportunity to remedy the problem before the health of the fish begins to deteriorate. This window commences as soon as the oxygen levels begin to fall. By the time the automated telephone alarm is sent the window has already been diminished. However, I see no reason why this alarm system could not be altered so that the telephone alarm is sent sooner, therefore allowing a greater window of opportunity to remedy any problems. Even if this means that the responder is called more frequently, perhaps unnecessarily so if it is a 'false alarm', given the severe implications for the loss of fish I do not consider this to be unreasonable.

10. One of the key concerns raised by the appellant is the reliability of back-up generators that are employed to cut in should there be a loss of power. I note that there have been incidences where a back-up generator did not cut in. Had someone been present in both cases referred to me it seems that there was little that anyone could have done to prevent the loss of fish. In both of these instances the failures would likely have been avoided had there been a suitable management and servicing programme in place for the generator. I acknowledge that mechanical equipment can fail. However, with an appropriate management and servicing programme in place I am satisfied that a back-up generator could adequately address any risk due to a loss of power supply. I note that there is a manual method of aerating the

lakes through the use of tanks. However, it is unlikely that this would prove to be an appropriate method given that the manager would have to service all three lakes in such a small window of opportunity. Therefore, in the unlikely event that there is a loss of power and the generator fails to work I am not convinced that a manager living on site would prevent the loss of the fish.

11. There have been a number of thefts and acts of vandalism on the site over the years, including the theft of tools, diesel and a generator. There is CCTV in place around the site and the entrance to the site has a lockable gate. During the daytime the site would have customers and the manager would be monitoring the site, amongst other things, during normal working hours. Therefore, it is during the night-time that the appellant argues that the manager living on site would provide an effective deterrent to potential wrong-doers.

12. I acknowledge the appellant's apprehension that there are security issues on the site due to its isolated location, as evidenced by the previous thefts and vandalism and the risk to valuable fish stock and equipment stored on site. However, it seems to me that alternative security measures have not been fully explored that would not require a dwelling on the site. For example, a security guard could be present on site during the hours that the site is closed, acting as both a deterrent and providing site surveillance.

13. Furthermore, the appellant argues that the manager needs to live on site in the interests of the health and safety of the occupants of the glamps, in particular regarding their safety around the fishing lakes, and assist in the case of an emergency. However, I do not consider that it is necessary for a manager to live on site to serve this purpose. I see no reason why appropriate safety measures could not be adopted around the lake to limit the risk of someone falling in and a staff member could be on call to respond to any emergency.

14. Much of the evidence submitted has been focused on the need for the manager to live on site in order address any problems that might occur with the stock lakes equipment, provide security for the site and ensure the health and safety of the occupants of the glamps. However, I am not satisfied that it has been demonstrated that there is an essential need for a rural worker to live on the site. As such, it fails to comply with Policies SWDP 2 and SWDP 19 of the DP and paragraph 55 of the Framework.

15. As I have found that there is not an essential need for a worker to live on site, I need not have regard to alternative accommodation nearby.

Other Matters

16. I have had regard to the various planning permissions granted and appeal decisions allowed for fishery worker's dwellings referred to me by the appellant. However, none of these are within Wychavon District and many of them pre-date the publication of the Framework. Therefore, they would have been assessed against a different policy framework than the proposal before me. Furthermore, there is no substantive evidence that the individual merits of the proposal are similar to those of any of these cases. Accordingly, I attribute these cases limited weight.

Conclusion

17. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sam Newell	Mark Newell Building Consultants Ltd.
Mark Newell	Mark Newell Building Consultants Ltd.
Dr. Bruno Broughton	Fisheries Management Consultant
Melvyn Rowberry	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Emma Worley	Development Manager, Wychavon District Council

DOCUMENTS SUBMITTED AT THE HEARING

1 Additional information regarding alternative dwellings in the locality, submitted by the Council
2 Notification letter, dated 12 July 2017, and list of interested parties notified, submitted by the Council