The Planning Inspectorate

Appeal Decision

Hearing held on 14 August 2018

Site visit made on 14 August 2018

by J Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date:14 September 2018

Appeal Ref: APP/U3935/W/18/3197000
Forked Elm, Blunsdon, Swindon SN26 7ES.

- 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 Richard Hobbs of R M Hobbs Ltd against the decision of Swindon Borough Council.
- The application Ref S/17/1123, dated 24 June 2017, was refused by notice dated 15 December 2017.
- The development proposed is application to erect a permanent agricultural worker's dwelling at Forked Elm.

Decision

1. The appeal is allowed and planning permission is granted for application to erect a permanent agricultural worker's dwelling at Forked Elm, Blunsdon, Swindon SN26 7ES in accordance with the terms of the application, Ref S/17/1123, dated 24 June 2017, subject to the attached schedule of 10 conditions.

Procedural Matter

2. The revised National Planning Policy Framework (2018) (the revised Framework) was published after the appeal was lodged but prior to the hearing taking place. The parties were asked to address the revised Framework orally at the hearing. I have taken the discussion at the hearing and the revised Framework into account in making my decision.

Main Issues

3. The main issues in this appeal are:

   a) whether there is an essential functional need for the proposed development and whether this would accord with national and local planning policies for development in the countryside; and

   b) the effect of the proposed development on the character and appearance of the area.

Reasons

a) Essential functional need

4. Forked Elm comprises 5 acres located close to the B4019 between Broad Blunsdon and Highworth. The farmyard contains 2 barns used for storage,

livestock and workshop facilities, which lie adjacent to a field which was occupied by sheep at the time of my site visit.

5. The appellant first established his farming business in 2004, and has owned and operated Forked Elm since 2015, with much of the work being carried out by the appellant on a full-time basis with assistance from the appellant's partner and 3 further employees on a part-time basis. While the part-time workers are located in nearby villages, the appellant and his family currently live in Swindon, over 8 miles from Forked Elm.

6. The proposed development is for the provision of a three-bedroom house to be located north-east of the barns. There is no dispute that the site is in the countryside and outside any designated development boundary. Paragraph 79 of the revised Framework states that such dwellings should be avoided unless special circumstances apply. This includes the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

7. Policy HA6 of the Swindon Borough Local Plan 2026 (2015) (the Local Plan) only permits new dwellings in the countryside based upon the essential needs of agriculture and forestry, subject to a number of criteria in part (a) of the policy. These criteria include the functional need for the proposed development and the size of the proposed development in relation to the functional need. Apart from the effect on the character of the area addressed in the next main issue, the further bullet points of part (a) of the policy relate to the financial viability of the business, adaption of existing buildings on site, provision of a building adjacent to existing buildings, and the use of an occupancy restriction. With the exception of the occupancy condition, I have not discussed these matters as they were not in dispute.

8. The appellant's enterprise involves beef cattle and sheep farming, with additional contracting services. Forked Elm is the only land owned by the appellant, providing a base for calving and lambing, the keeping of ill or injured livestock, forage and machinery. Further land parcels are farmed by the appellant across the wider area around Swindon under grazing and mowing licences which are generally renewed on an annual basis. This land provides forage and grazing for the livestock. Based on information provided at the hearing (document LE2), the appellant has over 1,150 acres of land available for the enterprise under grazing and mowing licences with 11 different landowners. This represents a considerable increase in land held under licence since the appeal was submitted, as the appellant's appeal statement refers to approximately 600 acres of land. The appellant also confirmed during the hearing that they had been offered over 1,000 acres under licence in 2018.

9. Although the holding of grazing and mowing licences can be a relatively transient process with little security of tenure, the appellant appears to have a strong track record of working with different landowners to take on land and manage it effectively. Since first taking on land under licence in 2010, the appellant has not lost any land under licence. Additionally, the appellant has taken on a higher amount of land than currently required by the enterprise with a wide range of landowners. This allows for fluctuations in weather conditions and the amount of grass required, and minimises the risk to the enterprise if land is lost. I recognise the Council's concerns that Forked Elm would not represent a viable holding in itself without additional land under

licence. However, even if the appellant were to lose some licences, I can see no reason why the appellant would not be able to secure further licences to ensure the ongoing viability of the enterprise.

10. While I understand the Council's reservations about the size of the holding at Forked Elm itself and that the need on site is not the need of the enterprise as a whole, the land managed under licence for the enterprise is considerable and is inevitably dotted around Swindon as land has become available. While Forked Elm may not be closer to some of the land under licence than the appellant's current home, Forked Elm represents a hub for the management of that land, with the appellant travelling to and from the appeal site numerous times a day to check on and feed livestock and move fodder.

11. All of the enterprise's approximately 42 head of Hereford and Hereford cross cattle are currently housed in one of the barns at Forked Elm as a bovine Tuberculosis (TB) reactor animal was found in the herd in March 2017 and a further inconclusive TB test was carried out in February 2018. The appellant provided document LE1 at the hearing which indicated that the cattle have been housed inside since that time and the herd has not been expanded to a significant extent due to TB movement restrictions in a high risk area for TB. Despite the number of cattle having remained static, the existing herd requires daily care and attention. As and when TB restrictions are lifted, it is likely that the appellant would continue to gradually increase cattle numbers, with additional calves housed on the appeal site.

12. With regard to the appellant's mixture of north England sheep, lambing is generally a seasonal rather than a year-round operation. Within the enterprise, it was explained that lambing takes place inside in November/December and April/May with the flock split equally. With over 400 ewes in total in early 2018, the enterprise had up to 236 ewes and 672 lambs at Forked Elm for the second lambing in April/May 2018. Based on the appellant's estimates in document LE1, given the ongoing expansion of the enterprise, there would be up to around 300 ewes and 1,040 lambs in the barns on site in late spring 2019.

13. Lambing and the presence of large numbers of ewes and lambs on site covers around 6 to 7 months of the year, with a lower number of livestock on site for the remaining 5 months of the year. In addition to being on hand for lambing, there are other tasks associated with the welfare and care of the animals including feeding, bedding, checking for illness, administering medications and medical procedures, as well as carrying out checks on sheep on other sites under licence. The appellant confirmed during the hearing that they have experienced fatalities in lambing due to not being able to be present on site all the time. The appellant's vet also advises that a permanent on-site presence would positively impact on the welfare of livestock and of the appellant, particularly at busy times during calving and lambing. Both main parties confirmed at the hearing that the use of other technologies such as CCTV would not assist sufficiently in identifying a ewe in distress during lambing. While there was some discussion during the hearing about lambing outdoors, it was recognised by both parties that mortality rates would be likely to increase due to the difficulties of monitoring lambing outside.

14. The Council does not dispute the importance of animal welfare, the high standards of welfare espoused by the appellant, or the need for farmers to maintain an overnight presence during lambing and calving. The Council also

acknowledges that the appellant works very long hours in a physically demanding job. The Council's concerns are based on the need to keep sheep housed inside for 2-3 months during lambing at Forked Elm, particularly in the context of the livestock numbers present at the appeal site. However, although the Council did not consider it to be a standard approach to lambing, it was not disputed that it is an accepted practice to farm sheep in this manner.

15. In terms of reorganising the duties and responsibilities of farm workers to ensure cover on site, the appellant is the main skilled worker and only permanent full-time employee of the enterprise. Given the nature and unpredictable hours of the work, the casual nature of the appellant's employees and the alternative employment carried out by the appellant's partner, I consider that it does not appear possible to rearrange duties between the appellant, his partner and the part-time workers to ensure the cover required to maintain animal welfare.

16. Although limited evidence was submitted with regard to whether any alternative accommodation close to the site is available to purchase, both parties acknowledged that it was likely that accommodation would be available in neighbouring villages of Broad Blunsdon and Stanton Fitzwarren, both of which are significantly nearer to the appeal site than the appellant's existing home. However, the appellant confirmed at the hearing that accommodation in a neighbouring village would not be likely to meet the needs of the enterprise as the accommodation would not be within sight and sound of the livestock. Additionally, the appellant has ruled out use of either of the existing farm buildings on the site as they are required for ongoing agricultural use. While the use of housing in nearby villages would significantly reduce the appellant's travel time, it would not fundamentally address their need to be on-site.

17. While the use of temporary caravan accommodation during peak times such as lambing might be appropriate on a short-term basis, this would not cater for the year-round care of young, orphaned or sick cattle or sheep, and other welfare issues that can arise at any time.

18. A permanent residential presence at Forked Elm would clearly provide benefits to the efficiency of the enterprise by removing the need for the appellant to undertake repeat trips between his home and Forked Elm. This would be particularly beneficial during calving and lambing, and would allow the enterprise to continue to expand in keeping with the requirements of paragraph 83 of the revised Framework in supporting a prosperous rural economy. While the Council considers that the needs of Forked Elm would only represent a part-time requirement given the level of livestock, it is not in dispute that the enterprise as a whole requires a full-time worker, with much of the work based at Forked Elm due to the concentration of livestock on site. Furthermore, policy HA6 of the Local Plan and paragraph 79 of the revised Framework do not specifically reference full-time workers.

19. I am satisfied, on the balance of evidence, including the increasing number of animals at Forked Elm over the year, the out-of-hours requirement arising from calving and lambing, the necessity to care for newly born and sick animals, and ongoing welfare issues, that there is a need for a worker to be on hand day and night within sight and sound of the farm buildings.

20. There was some discussion at the hearing about security against theft, injury, fire, and biosecurity. I have not addressed these matters in detail as I have

found that there is need for a worker to be on hand day and night within sight and sound of the farm buildings. While I recognise the Council's concerns that keeping machinery on site would reduce usable space for livestock and forage, I have no reason to believe that there is not space on the appeal site for the storage of machinery, while maintaining livestock levels and allowing for forage. The storage of machinery on site would also be likely to reduce repeated journeys to pick up machinery from other locations.

21. Turning to the proposed development's size, the main dwelling would have a footprint of about 120m² and a floor area of about 240m², excluding the garage, utility room, shower room, office and store room. With the inclusion of these rooms, the total floor area of the proposed development would be approximately 335m². Although no specific guidance on the size of an agricultural worker's dwelling is offered in the revised Framework or in Local Plan policy, the Council makes its judgement on size based on the functional need of the enterprise and notes in paragraph 4.152 of the Local Plan that the dwelling should not be inordinately large or extensive relative to the enterprise's needs.

22. The accommodation would comprise a dining/kitchen area, living room, WC, and study at ground floor level, 3 bedrooms and 3 bathrooms at first floor, and a wing with the garage, utility room, shower room at ground floor level and the store and farm office accessed separately via a staircase from the utility room. Although the floor area might be said to be fairly sizeable and I note the Council's concerns about the proposed number of bedrooms, bathrooms, and offices, and the size of the proposed living room and garden, the proposed development would be the only house on the holding and would provide the main farmhouse and office base for the enterprise, which is split across a large number of land parcels. To my mind, the amount of living accommodation and garden space to be provided would not be excessive.

23. Furthermore, the separation of the rooms serving the farm business would allow for medication for livestock and farm records to be kept safely and support biosecurity. The Council confirmed during the hearing that in the event of essential functional need being established, the size and scale of the proposed house was not harmful in its own right so as to warrant the dismissal of the appeal. I concur with this view. Therefore, on balance, I consider its proposed size is not at odds with the particular agricultural circumstances of the case and the need to provide family accommodation.

24. While the Council expressed concerns at the hearing that the proposed dwelling would be excessively expensive if it were to be put up for sale in the future, no indication was provided of the likely value of the proposed development and the Council confirmed at the hearing that the proposed development represented the sort of house which other agricultural occupiers would live in. In any event, both parties consider that the enterprise is operating on a sound financial basis and no evidence has been provided which would indicate that the enterprise could not sustain the size of the proposed dwelling. Furthermore, I consider that the presence of a condition restricting occupancy to agricultural workers would be likely to restrain the price of the proposed dwelling somewhat to ensure it remains available to an agricultural worker.

25. Concluding on this main issue, I consider that the essential functional need for a new permanent dwelling for an agricultural worker has been justified and that

the scale of the proposed development would be appropriate to the context of the enterprise's functional need. Accordingly, I find no conflict with the objectives of policy HA6 of the Local Plan and paragraph 79 of the revised Framework, as set out above.

b) Character and appearance

26. The countryside surrounding the appeal site lies within the Mid Vale Ridge Landscape Character Area. It is gently rolling countryside with relatively small, irregularly shaped fields separated by hedges and wooded areas. A small brook is situated at the bottom of the slope below the farm buildings. A number of farmhouses and farm buildings at Stubbs Hill, Forked Elm, Brook Farm, and Stanton Waters lie adjacent to the B4019. There is a public right of way (Broad Blunsdon BL8) which runs through the field adjacent to the barns at Forked Elm and emerges onto the B4019.

27. The appeal site is largely screened from the B4019 by tall hedgerows and the proposed development would include additional hedging along the north-eastern boundary. While the proposed house would be sited on fairly elevated and sloping ground, it would be set away from the top-most point of the land at the road. Other isolated farms and the linear village of Stanton Fitzwarren are visible from the appeal site. Given its proposed siting as part of a small cluster of buildings with the adjacent existing steel portal barns, its traditional appearance, and the proposed materials of reconstituted stone, slate and timber, it would be in keeping with the surrounding area and the nearby farms. The Council raises no objections to its design and considers that the proposed development would have only a limited effect on the countryside.

28. Concluding on this main issue, I consider that the proposed development would have an acceptable effect on the character and appearance of the area. It would therefore accord with policies DE1 and HA6 of the Local Plan. Policy DE1 states that, amongst other things, development will be expected to be of a high standard of design and to reflect local context and character, and layout, form and function. Policy HA6 makes reference, amongst other things, to the design of the proposed dwelling being in harmony with the landscape character type and the appearance of the countryside.

Other Matters

29. Both main parties agree that the Council cannot demonstrate a five year supply of deliverable housing land and that the shortfall is 2.5 years. Although there is no five year housing land supply, I have found no conflict with the development plan. There are therefore no adverse impacts which would significantly and demonstrably outweigh the benefits of providing a new house in this instance.

Conditions

30. It is necessary to impose conditions relating to the commencement of development and submitted plans for certainty. It was noted in the statement of common ground and during the hearing that a number of plans had not appeared on the Council's decision notice, but should be included in the relevant plans condition as they had been submitted with the application and had been subject to consultation. Furthermore, it was clarified during the hearing that the site plan at 1:2500 did not correctly show the 2 barns as indicated on the block plans at 1:500 and 1:1250.

31. The imposition of a suitably worded planning condition to restrict the occupancy of the dwelling to an agricultural or forestry worker would avoid the occupation of the dwelling as standard market housing which policy HA6 of the Local Plan and paragraph 79 of the revised Framework seek to prevent in the countryside. It would be necessary, relevant and reasonable to make otherwise unacceptable development acceptable.

32. Paragraph 53 of the revised Framework advises against the use of planning conditions to restrict permitted development rights unless there are clear reasons for doing so. In this instance, a condition removing permitted development rights is necessary, relevant and reasonable to ensure that the dwelling is of a size commensurate to the functional requirement. The condition would not prevent alterations or outbuildings altogether but would enable the Council to exercise control over proposals.

33. It is also necessary to require approval of materials, hard and soft landscaping, boundary treatments, and slab levels in the interest of visual amenity. The Council's suggested conditions on landscaping and boundary treatments have been amalgamated. Following discussion at the hearing, the landscaping condition also makes reference to external lighting in the interests of the visual amenity of what is a relatively dark area of countryside at night.

34. Conditions on construction management and parking are required to ensure that the development does not have an adverse effect on highway safety, while the condition relating to the use of the garage ensures that the garage is retained for parking and storage associated with the house.

35. Details of materials do not need to be submitted prior to commencement of development as they would not prevent ground preparation works from taking place. However, construction management, slab levels and landscaping conditions are pre-commencement conditions as they involve elements that need to be addressed before construction works begin.

Conclusion

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

J Gilbert

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Hobbs	Appellant
Libby Barron	Webb Paton
Helen Wiltshire	Webb Paton

FOR THE LOCAL PLANNING AUTHORITY:

Tom Brunt	Savills
Rhian Morris	Swindon Borough Council
Charlotte Hopkins	Swindon Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

LE1 Livestock Housed at Forked Elm

LE2 Land Availability and Land taken on in April/May 2018

SCHEDULE OF 10 CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the approved plans Site Plan at 1: 2500; Site Plan at 1: 10,000; Block Plan at 1:1250; Block Plan at 1: 500; Webb Patton SN4 003 Proposed Floor Plans; Helshani NG4 004a Existing and Proposed Elevation; and Webb Patton 004b Proposed Elevation.

3) 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.

4) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D, and E, of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out, and no provision of outbuildings, enclosures, swimming or other pool shall be erected other than those expressly authorised by this permission.

5) Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period of the development. The Construction Method Statement shall:

   i. specify the type and number of vehicles;

ii. specify the point of construction access and access route to the site;

iii. provide for the parking of vehicles of site operatives and visitors;

iv. provide for the loading and unloading of plant and materials;

v. provide for the storage of plant and materials used in constructing the development;

vi. provide for wheel washing facilities;

vii. specify the construction working hours;

viii. specify measures to control the emission of dust and dirt during construction.

6) Prior to the commencement of development, details of the slab levels of the development in relation to the existing and proposed levels of the site and the surrounding land shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved slab levels.

7) Prior to the commencement of development, details of both hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:

i. boundary treatments, including their materials, positioning and design;

ii. external lighting; and

iii. soft landscaping, including a planting schedule and programme of implementation. The scheme shall include details of the positions, species and crown spread of all existing trees and hedgerows on the land, detailing those to be retained, together with measures for their protection during development. The approved scheme shall be implemented as per the approved programme of implementation.

8) Prior to construction above ground level, details of all external facing materials to be used in the construction of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

9) Prior to the occupation of the development, space shall be laid out within the site for 2 no. vehicles to be parked, and for all vehicles to be able to turn so as to enter and leave the site in forward gear, and such provision shall be maintained thereafter.

10) The double garage which forms part of the development shall be used only for the accommodation of private motor vehicles and no trade or business shall be carried on therein.