
Appeal Decision

Hearing Held on 30 July 2019

Site visit made on 30 July 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/W0340/W/18/3215057

Old Street Farm, Beedon Common, Newbury, Berkshire, RG20 8TU.

- 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 R Kilvington against the decision of West Berkshire Council.
 - The application Ref. 17/02800/FULD, dated 4 October 2017, was refused by notice dated 30 April 2018.
 - The development proposed is the siting of a residential mobile home for a temporary period of 3 years.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a residential mobile home for a limited period of three years at Old Street Farm, Beedon Common, Newbury, Berkshire, RG20 8TU in accordance with the application ref. 17/02800/FULD dated 4 October 2017, and subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The description of development set out above differs from the application form but was agreed by the main parties at the Hearing. Mr Kilvington confirmed that he is the appellant; Royal Berkshire Foods as mentioned in some of the appeal documents, is a separate company.

Main Issues

3. The main issues are whether there would be an exceptional agricultural need for a worker to live on site all of the time on the proposed pig rearing business, and if so, whether the business is likely to be remain viable in the longer term.

Reasons

Background

4. The appeal site forms part of a narrow rectangular area of land extending to about 1.4 ha which lies in an area of open countryside and which also forms part of the North Wessex Downs Area of Outstanding Natural Beauty (NWDONB). The overall site has a number of farm buildings and was previously used as a pig farm. It is proposed to site a residential mobile home on the land for occupation by the appellant or a stockman in association with the re-introduction of the livestock.
5. The planning history of the site is relevant to the appeal. Temporary permission for a mobile home for an agricultural worker to live on site was first given by the Council in 2007 and renewed in 2008 and 2014. An application for a permanent agricultural dwelling was submitted in 2011 but following rejection

by the Council a subsequent appeal was dismissed in 2012 under ref. APP/W0340/A/12/2175823. At that time the Inspector had considerable doubt over the sustainability of the enterprise in the long term.

6. The appellant says that the mobile home and some of the farm buildings suffered from fire damage in 2015, which was suspected of being arson, but the livestock was not affected. Nevertheless, as the appellant could not live on the site at that time, the pigs, amounting to about 100 sows with litters, together with older pigs, were removed from the site.

Policy context

7. The development plan mainly includes the Council's Core Strategy (2012) (CS) and the Housing Site Allocations Development Plan Document (HSA DPD) adopted in 2017. CS Policy C1 indicates that new homes will be delivered in accordance with a development strategy which, in short, limits development to that contained within a settlement hierarchy. Outside of settlement boundaries there is a clear presumption against new residential development but there are recognised exceptions for, amongst other aspects, housing to accommodate rural workers. This is echoed in the Area Delivery Plan Policy 1.
8. I consider and the main parties agree that the site lies in an area of open countryside remote from any identified settlement. On this basis, the critical policy in this appeal is HSA DPD Policy C5 which concerns housing related to rural workers and this will be considered in the main issues.
9. In terms of national policy, the National Planning Policy Framework (NPPF) indicates in paragraph 79 that new isolated homes in the countryside should be resisted, unless there are exceptional circumstances, such as in part (a) - an essential need for a rural worker to live permanently at or near the site. Given the context of the site and very rural setting I consider that it lies in an isolated location having regard to the characteristics of such a location identified by the Court in the case of *Braintree*¹. I therefore find this general policy position applies to the proposal as a material consideration.

Whether an essential agricultural need

10. The appeal documents include an Agricultural Appraisal dated 2018, (now referred to as the 2018 report) however this document was prepared by the appellant and is not an independent expert assessment unlike the report prepared by Kernon Countryside Consultants in 2013, as commissioned by the Council and to which I give more weight. The appellant's report is more of a business plan which sets out the proposal and was amplified orally at the hearing.
11. It is proposed to bring in weaners (piglets recently weaned) at between 7-35kg which would be fattened up and sold on at 90/100kg after 17-22 weeks depending on the sales market chosen. The appellant anticipates that there would be 700-800 pigs on the holding at any one time with around 2,500 reared per annum. The appellant also proposes to continue with the development of the permitted farm shop and the produce of the farm would also be sold there. The appellant intends to utilise the existing large partly open sided barn to house the pigs. I noted at the site visit that although the barn is full of assorted farm machinery and stored timber/firewood, the

¹ *Braintree District Council v SSCLG & Ors EWHC 2743 (Admin)*

appellant said that he estimated that it would only take a month to clear the barn and make it suitable to accommodate the livestock envisaged. The appellant also pointed out the pig feeding system that was still installed in the barn and that he intended to refurbish.

12. The 2018 report indicates that a residential presence on site is essential to supervise the welfare of the animals and the appellant stressed the need for on-site security as he is anxious not to have a further incident over his livestock or premises. The appellant also referred to a contract requirement from one of his intended purchasers of the stock who require a live-in presence on site to oversee the livestock. The 2018 report goes on to identify that the scale of livestock operation would amount to 294 standard man days which is generally recognised as a requirement for a full time worker.
13. Although the Kernon appraisal was undertaken in 2013 when the pig business was based on breeding rather than rearing and fattening, the report recognised that it was the appellant's intention to revise the business in this way. The Kernon appraisal concludes that the rearing and finishing unit would give rise to an essential need, for animal welfare reasons, for a stockman to live permanently on site.
14. On the evidence put to me I am satisfied that, considered on its individual merits, the scale and nature of the pig rearing business put forward justifies on animal welfare grounds, as supplemented by the site security issue, an essential need for a full-time stockman to live permanently on site and so criteria (i) and (ii) of Policy C5 is met.

Whether any need is likely to continue

15. Criterion (v) of Policy C5 about rural workers housing requires a proposal to demonstrate the financial viability of the business as part of the justification for either permanent or temporary accommodation.
16. The 2018 report puts forward financial projections with about £19,000 per annum derived from the sale of pigs together with some £15,000, rising to about £25,000 in year 3, from direct sales from the farm shop. Therefore, the gross profit per annum is expected to be about £43,000 from the farming enterprise after three years in operation.
17. The Council is concerned that these projections are not based on actual data from a business that appears to have been trading on site since 2006. Nor are there audited accounts put forward. The Council also queries that the projected earnings do not include labour costs and there appears to be little nett income available for the intended growth of the business and development costs including those associated with the further construction of the farm shop.
18. I have similar concerns that the business plan in the 2018 report is not backed up by factual financial evidence over a reasonable period and this was also a concern of the inspector at the 2012 appeal decision. Nevertheless, the Kernon appraisal looked at the financial projections of the pig rearing and finishing off business and concluded that the proposal is likely to be financially sustainable.
19. On the basis of the limited evidence available, it appears to me that, at least in principle, the farming operation proposed has the potential to realise a modest profit which would sustain the employment of a necessary stockman on site. Further, in the main the proposal would utilise an existing building.

Planning balance

20. On the main issues I have found that although the proposed mobile home is associated with an intention to develop the farming business rather than a well-established one, the scale and nature of the pig rearing proposed would give rise to the essential need for a stockman to live permanently on site for animal welfare and security reasons. The work involved with the unit would comprise a full time job. The business would also be likely to result in a modest profit although this is still an intention and has not yet been proved over time. On this basis, considered on its individual merits the scheme accords with the relevant parts of Policy C5 for the establishment of residential accommodation for a rural enterprise. It would also accord with the NPPF guidance referred to above about exceptional circumstances for a home in an isolated location.
21. At the site visit I observed that the farm and its buildings had an unused and dilapidated appearance and there was evidence of the effects of the fire. However, the main barn appeared sound and the appellant's view that it would only take a month to get it ready for use for pig rearing does not appear to me to be an unreasonable one. Further, although the scheme is based on future intentions, I have no reason to doubt that these are genuine.
22. The national Planning Practice Guidance advises that it will rarely be appropriate to grant a second temporary permission except where changing circumstances provide a clear rationale (ref. 21a-014-20140306). In this case the mobile home for the worker on the pig farm had already been renewed, but the Council and the previous Inspector concluded at that time there was insufficient certainty that the business would continue to be viable to the extent that a permanent dwelling was justified.
23. On the face of it, the fire has resulted in different circumstances to those which applied when the previous temporary permissions were granted for a mobile home on site and a different form of pig rearing enterprise is now envisaged. This would largely make use of an existing barn. I note the correspondence between the Council and the appellant over the removal of a condition imposed on the original permission for this barn but this is a separate matter to this appeal scheme which in any event would retain the barn in agricultural use. I also have to bear in mind that the Council has permitted the siting of a farm shop on the unit albeit for a temporary period.
24. On balance, I find that there is sufficient merit in the envisaged scheme to justify the presence of the mobile home on the unit for a rural worker to live on site. These amount to changed circumstances in the context of the guidance in the PPG and justify the grant of permission for a limited period.

Conditions

25. In terms of conditions the Council recommends three. One that limits the permission and the removal of the mobile home after three years is reasonable and necessary as that is what is applied for and a more permanent residential unit has not been shown to be established or viable in the long term. However, as discussed at the Hearing I will amend the condition proposed to also refer to the cessation of the residential use for completeness and to ensure that such a use does not get established even if the mobile home permitted is removed from the site. A condition limiting the occupation of the mobile home to a

person solely or mainly employed on this holding is reasonable and necessary given the nature of the proposal and as a general residential use would not be acceptable in this area of countryside under the relevant policies in the development plan. However, I will amend this condition to take account of the position where there may be gaps where batches of pigs are being restocked. Finally, I agree with the Council that a condition should be imposed to ensure that the development, if carried out, is implemented in accordance with the submitted plans that are approved in the interests of clarity and to maintain the character and appearance of the area.

Conclusion

26. For the reasons given above I conclude that the appeals should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

1. The mobile home hereby permitted shall be removed from the land, and the residential use shall cease, at the expiry of three years from the date of this decision or when the mobile home ceases to be occupied whichever is the sooner. The land shall be restored to its former condition within two months of the date on which the building is removed.
2. The occupation of the mobile home hereby permitted shall be limited to a person solely or mainly employed as a stockman, (or retired though old age or ill health) within the holding known as Old Street Farm, or a dependent of such a person residing with that person (but including a widow or widower of such a person). The mobile home hereby approved shall not be sold or leased as a separate planning unit from the main holding and shall not be occupied if no livestock is being reared/fattened on site.
3. The development hereby permitted shall be carried out in association with the approved drawings: Drawing title 'Block Plan = no 100 Rev A; Drawings showing Elevation and Floor Plans of mobile home - No drawing number but received 18/10/2017.

APPEARANCES

FOR THE APPELLANT:

Mr R Kilvington	Appellant
Mr N Cobbold, BSc (Hons) Dip TP, MRTPI.	Senior Associate, Bell Cornwall LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Sheppard	Senior Planning Officer, West Berkshire District Council.
Mr J Brown	Principal Planning Officer, West Berkshire District Council.

INTERESTED PERSONS:

Mr C Hooker	Local District Councillor, West Berkshire District Council.
Mr S Price	Beedon Parish Council
Mr M Belcher	Chieveley Parish Council

DOCUMENTS HANDED IN AT THE HEARING

1. Statement of Common Ground signed 30 July 2019.
2. Copies of Planning Officer report and decision notice for application 18/03251; together with accompanying Planning Statement from Bell Cornwell dated 21 November 2018.