



Appeal Decision

Site visit made on 26 November 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/R0660/W/19/3236598

Daisy Bank Farm, Mickley Hall Lane, Broomhall CW5 8AJ

- 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 Andrew Hollins on behalf of Broadhay Eggs Ltd. against the decision of Cheshire East Council.
 - The application Ref 19/2813N, dated 10 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is the erection of a single storey agricultural workers dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey agricultural workers dwelling at Daisy Bank Farm, Mickley Hall Lane, Broomhall CW5 8AJ in accordance with the terms of the application, Ref 19/2813N, dated 10 June 2019, subject to the conditions contained in the schedule attached to this Decision.

Main Issue

2. The main issue is whether there is an essential need for an additional full-time worker to be permanently resident at Daisy Bank Farm.

Reasons

3. The appellant bought the appeal site in 2012 and has been operating the site as a free-range egg production operation since, at a capacity of 96,000 birds since 2016. It is common ground between the main parties that the business is financially sound with a clear prospect of remaining so. The site comprises three separate pairs of large buildings spread across the land, with each pair accommodating 32,000 birds. These buildings are almost identical in their design and are accessed via a track leading off Mickley Hall Lane.
4. In addition to the poultry sheds, there is a dwelling located at the entrance to the site, which has an agricultural tie. The site manager occupies this dwelling. At the hearing, it was confirmed that this dwelling was granted planning permission some years ago in association with the farm which the appeal site previously formed part of. Therefore, it was not granted permission on the basis of an essential need of the current agricultural enterprise at Daisy Bank Farm.
5. The site employs a total of five staff; two stockmen, including the site manager, and three egg packers. The daily tasks carried out on the site,

- including monitoring feed and water, checking for mortalities and closing of pop holes, follow set times throughout the day, although the closing of the pop holes alters depending on the time of year due to the changes in daylight availability.
6. The operation has a high degree of automation and includes an alarm system that is activated if there is a problem within the shed, for example with temperature, ventilation, power failure or food/water provision. The alarm is linked to an auto-dialler that contacts the receiver informing them of the emergency. At the hearing, the appellant confirmed that the alarm system can be activated a number of times a week for various reasons. When an emergency occurs, there is often a very small window of opportunity to resolve the problem before the birds begin to panic, which would result in them being smothered to death. This can have a severely adverse effect on the flock, particularly as each flock is replaced once every 14 months and cannot be restocked once a new flock has been established. Therefore, the loss of any birds would reduce the egg laying capabilities of the business for the remainder of the 14 month period. I heard that there was as low as a five-minute window of opportunity to deal with a power failure or loss of ventilation before birds would begin to die on a large scale.
 7. Notwithstanding the high degree of automation of the site, a worker needs to be on hand to deal with unforeseen crises. These include unexpected noise disturbance (such as from aircraft flying overhead) or failure of automated ventilation systems. When such events occur, they are likely to cause large scale panic amongst the flocks. Immediate intervention by a stockman would therefore be required to prevent significant loss of stock. Furthermore, it is important that a stockman is within hearing distance of the flocks so that their noise can alert them to a problem when there are no visual cues.
 8. The Council contends that appropriate supervision can be provided from the existing dwelling. However, this dwelling is not within reasonable sight or sound of any of the poultry buildings. I appreciate that the operation has automated monitoring systems which provide alerts via mobile phones. Whilst these are valuable tools, I accept the appellant's contention that they are not substitutes for the eyes and ears of a suitably trained and experienced poultry worker.
 9. At present, the site manager is the first point of call to deal with any emergencies occurring after the working day. This cover is provided 24 hours a day, seven days a week. Whilst shift work could ensure there is a worker present on site at all times, it would not be reasonable for a trained poultry worker to be present on site throughout the night with no duties to carry out except for waiting for an emergency to occur, which may not even happen. This would not be an efficient use of resources and would not reasonably justify the likely need to employ more staff.
 10. There are a number of properties available for sale or rent within the vicinity of the site in neighbouring villages. However, these would not be within sight or sound of the poultry buildings and therefore would not meet the needs of the business. The proposed dwelling would be located within the middle of the poultry buildings, within both sight and sound of them, ideally located to meet the functional need.

11. I have had regard to there being no legislative requirement that workers must be present on site 24/7, 365 days a year and that codes of practice require hens to only be inspected a minimum of once per day. However, my assessment of the proposal has not been solely based on the welfare of the livestock but also the effect on the sustainability of the business. Were the flocks only monitored once a day then an unforeseen problem, such as loss in ventilation, could result in the loss of the entire flock, which would have a significantly detrimental effect on the business.
12. I acknowledge that the proposal would effectively result in two agricultural worker's dwellings serving the appeal site. However, the existing dwelling was not approved on the basis of the needs of the existing business. Based on the evidence presented to me and my own observations on site, as a result of the distance between it and the poultry buildings, the existing dwelling does not fully meet the essential needs of the business.
13. Overall, the evidence is sufficient to persuade me that nothing short of a dwelling within sight and sound of the poultry buildings would guarantee the welfare of the stock within this particular poultry unit. Such provision is necessary to farm in a responsible manner, given the scale of the agricultural enterprise and its operational needs.
14. I have had regard to the previous appeal decision whereby the Inspector dismissed the proposal for a similar scheme, albeit with the dwelling located in a different position. Whilst the full details of the previous scheme are not before me, I note that the dwelling was proposed in a different location to the current one. Based on the evidence presented to me regarding the current proposal, in particular the need for the dwelling to be within sight and sound of the poultry buildings, I am satisfied that it meets an essential need.
15. I therefore conclude that the nature and demands of the enterprise create an essential need for an additional full-time worker to be permanently resident at Daisy Bank Farm. As such, the proposal would comply with Policy PG6 of the Cheshire East Local Plan Strategy 2017 and saved Policy RES.5 of the Congleton Borough Local Plan First Review 2005, which allow dwellings in the open countryside that are essential for the purposes of agriculture. It would also accord with paragraph 79 of the National Planning Policy Framework, which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a worker.

Other Matters

16. I have had regard to the history of the site and its development into the current business. Evidence in support of the planning applications for the existing poultry buildings did not require that they should have been in sight and sound of the existing dwelling. However, had they been, this would likely have required the buildings to be much closer to other residential properties, thus potentially harming their occupants' amenities. Furthermore, I acknowledge the proximity of the proposed dwelling to the poultry buildings. However, as it would be associated with the agricultural enterprise and occupied by one of its staff, any harm to their amenities would not be unreasonable, as with any typical farmhouse within proximity of livestock buildings.

17. I have also considered the number of schemes for agricultural workers dwellings referred to me that are not within sight or sound of the poultry buildings. However, my assessment of the appeal has been based on the specific needs of the business operated at Daisy Bank Farm and the evidence presented to me. Therefore, I attribute limited weight to these examples.

Conditions

18. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
19. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
20. The National Planning Practice Guidance (NPPG) states that 'conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances'. Given that the proposal is only acceptable on the basis of there being an essential need for it, contrary to the general presumption against development in the open countryside, I am satisfied that there are exceptional circumstances justifying the removal of permitted development rights.
21. In the interests of protecting the open countryside from unacceptable encroachment, a condition is necessary restricting the building use to only those employed in agriculture or forestry or their widowed spouse and resident dependents. At the hearing there was a discussion as to whether there should be a personal condition tying the dwelling to the business. However, were the business to cease trading the dwelling would not be able to be occupied, which would put pressure on the Council to remove the condition, resulting in it becoming an open market dwelling.
22. In the interests of the character and appearance of the area, conditions are necessary regarding a landscaping scheme and its implementation; and, external materials.
23. At the hearing, the Council also suggested a condition regarding surface and foul drainage. The appellant raised no objection to this and in the interests of flooding and public health, I consider that such a condition is necessary. It is essential that this is a pre-commencement condition to ensure that a suitable scheme can be provided prior to works commencing.

Conclusion

24. For the reasons given above, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF 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 following approved plans: IP/BHE/01, IP/AH/02 and IP/BHE/03.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Classes A-B, and E of Part 1, and Class A of Part 2 Schedule 2 of the Order shall be carried out.
- 4) The occupation of the dwelling shall be limited to a person solely or mainly working or last working in the locality in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and to any resident dependants.
- 5) Prior to the commencement of development, a scheme for the landscaping of the site shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
- 6) The approved landscaping plan shall be completed in accordance with the following:-
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the local planning authority.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of British Standard BS5837: 2005 Trees in Relation to Construction: Recommendations.
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
- 7) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall commence until a surface and foul water drainage scheme has been submitted to and approved in writing by the local

planning authority. Foul and surface water shall be drained on separate systems. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

APPEARANCES

FOR THE APPELLANT:

Ian Pick
Andrew Hollins

Ian Pick Associates Ltd.
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Gemma Horton
Calum Mountfield

Senior Planner
Planner