



Appeal Decision

Hearing Held on 6 October 2020

Site visit made on 7 October 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Appeal Ref: APP/H1840/W/20/3246162

**Willow Farm Fishery, Chadbury Road, Lenchwick, Evesham,
Worcestershire WR11 4TG**

- 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 Mark Ricketts of Willow Farm Fisheries against the decision of Wychavon District Council.
 - The application Ref 18/01298/FUL, dated 5 May 2018, was refused by notice dated 20 November 2019.
 - The development proposed is described as: 'dwelling for rural worker'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the Hearing, I alerted the main parties to the technical inconsistencies between 2no. of the submitted drawings¹ that formed part of the planning application, refused by the Council. As the location of the proposed dwelling in the site layout plan was outside the site edge red, it was agreed by both main parties, for the purposes of this appeal that the proposed location of the dwelling would be taken from the location indicated on the site edge red.
3. Furthermore, despite the main parties' agreement about the site layout plan², it was confirmed at the Hearing that this plan should not, for the reasons given above, be considered as part of the appeal. It was also agreed at the Hearing that 2no. additional drawings³ submitted by the appellant should not be given any further consideration for the purpose of the appeal as they have no bearing on the scheme. I have dealt with the appeal on this basis.
4. Concern was raised by the Council at the Hearing about the accuracy of the site edge red and the ability to locate the appeal site and location of the proposed dwelling on the holding. After some discussions on this matter, I was satisfied that the site edge red adequately identifies the appeal site and its surroundings in order to determine the appeal. This approach was ratified during the site visit and I have considered the appeal accordingly.

¹ The Map Shop Plan 1:2500 (site edge red) and RPS drawing JPW0454-010B - Proposed Site Layout (the site layout plan)

² Statement of Common Ground by email dated 2 October 2020

³ OS Landplan Scale 1:5000 and RPS Drawing JPW0454-002A

Main Issues

5. The main issues of this appeal are:

- i. whether there is an essential need for a permanent resident worker's dwelling on the site; and,
- ii. the effect of the proposed development on the Public Right of Way (PROW).

Reasons

Rural Workers Dwelling

6. The appeal site is located beyond the existing buildings on an area of the holding that is currently used for storage of machinery and materials. At the Hearing it was confirmed that the size of the holding was approximately 60 acres. It was also confirmed that the rural enterprise currently comprises the solar farm, which occupies roughly 26 acres of the holding, 15no. alpacas, production of hay and the fishery. It was further clarified that the alpacas do not currently reside on the holding and the that fishery has been established in excess of 27 years.
7. Built development in the vicinity of the site is limited to predominantly isolated dwellings, farmsteads or rural businesses. This dispersed pattern of development, does not, in my view, reasonably comprise a settlement for the purposes of the development plan. The nearest settlement of any size is found on Lenchwick Lane. However, this is some distance away and separated from the site by mainly agricultural land. The proposed dwelling, due to its location, would constitute an isolated new home in the countryside.
8. 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 79 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. This is reflected in Policy SWDP 2 of the South Worcestershire Development Plan 2016 (DP), which sets out a similar approach in this regard by seeking to strictly control development beyond any development boundary, subject to a number of exceptions, including a dwelling for a rural worker. Additionally, DP Policy SWDP 19 (A) lists a number of criteria for a permanent rural enterprise dwelling, including compliance with the functional and economic tests contained within Annex G.
9. The appellant considers that there is an essential need for someone to live on the appeal site to provide supervision, care and attention for the proposed hatchery during the daytime and at night, and to allow a rapid response in the case of any emergencies to prevent system failure and subsequent financial loss to the business. In addition, the appellant considers a dwelling is required to make the hatchery a viable proposition. Other factors such as the security of the solar farm and the relocation of the alpacas was also discussed at the Hearing, although it was agreed that these were supplementary elements to the proposed hatchery regarding the essential need. Furthermore, it was clarified by the appellant that the alpacas were a hobby of his wife and currently located on other land near to their home.

10. The activities on the holding are currently of a low intensity nature. The appellant wishes to incorporate a hatchery to compliment the existing fishery, through artificially breeding 'fish for the table' (Carp) from egg to market. The appellant may have already spent a notable amount of money purchasing numerous items in preparation for the hatchery, but he is not able to progress the venture any further, due to living 13 miles away in Eckington. This represents an approximate travel time of 30 minutes from his home to the site. In his submission it is stated that a failure of electricity supply would affect oxygen, flow and heating, with the prospect of losing 100,000 young fish/eggs with 15 to 20 minutes.
11. At the Hearing the appellant confirmed that it would be possible to install alarms and a backup generator. This would alert the appellant to any issues and would maintain the supply of electricity. It would also help to reduce the need for routine visits during the night. I consider it is during the non-working/ evening/overnight periods where any such functional need could be generated. During the daytime, I find that the situations listed could be adequately covered by the appellant, during his normal working day⁴. The appellant's Statement of Case asserts that the consultant's report⁵ advises that the person managing the hatchery must be on site 24 hours a day. However, I can find no such reference in the consultant's report, although such a reference was made in the Accounts Report⁶.
12. The appellant has highlighted that there have been 2no. attempts to break into the solar farm. However, there is little evidence before me to suggest that the recently installed CCTV cameras have not improved the situation and provided a sufficient deterrent. While a physical presence may further improve security and minimise delays in contacting the contracted security company, which is based in Norwich. Such security issues are not, though, normally, a justification for a rural worker's dwelling.
13. The appellant currently lives with his family in a socially rented house and is unwilling to relinquish the tenancy in exchange for temporary accommodation, which I am sympathetic towards. The Council confirmed at the Hearing that it is not against the principle of a rural workers dwelling on the site, but consider this should be in the form of temporary accommodation given the current stage of the hatchery. Nonetheless, little evidence has been submitted which adequately demonstrates that there is no alternative accommodation closer to the site that is available to purchase or rent, including a socially rented transfer. With the nature of the enterprise, this would not appear to be an unsuitable option, based on the information before me, despite the appellant's views to the contrary.
14. The Accounts Report has financial projections for the rural enterprise and indicates that a financial return from the sale of fish was anticipated in 2017 and 2018. However, the hatchery never became operational and therefore given the age of this document I cannot be certain that it accurately reflects the existing or proposed situation in 2020. In any event, I find the submitted financial information to be restricted in that no formal accounts have been presented. This is contrary to the guidance in Annex G (2) surrounding the economic sustainability of the enterprise. Whilst the appellant alluded to the

⁴ 10 to 12 hours per day, 7 days per week

⁵ Feasibility and Production Plan by Ichthys Aquaculture Consultancy

⁶ Tim Gilson Chartered Accountant dated 16 April 2014

profitability of the enterprise at the Hearing, as does the hand drawn annotations in the Accounts Report, the submitted evidence does not sufficiently indicate that the enterprise, in particular the proposed hatchery, has clear prospects of being maintained for a reasonable period of time.

15. The approval of a planning application⁷ (the application) in Great Comberton by the Council was discussed at the Hearing, and whilst I do not have the full details of this case, it is clear from discussions at the Hearing that the circumstances surrounding the application had notable differences to the scheme before me, as it involved an existing enterprise, which in addition to financial projections, provided 3 years of accounts. The circumstances of the two schemes are therefore not directly comparable and do not lead me to considering altering my position in respect of the essential need for a permanent rural worker's dwelling on this site.
16. The appellant clearly works hard and dedicates many hours to the business. It is understandable that he would prefer to move into a permanent dwelling with his family due to the potential effect on family life. However, the personal life of the appellant has little bearing on my consideration of the essential needs of the business. I have also had regard to the letter of support from the National Farmers Union⁸, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.
17. I recognise that the Framework⁹ seeks to support economic growth in rural areas and to promote the development and diversification of agricultural and other land based rural businesses. However, demonstrating an essential need for a permanent dwelling is relevant in terms of both the development plan and national planning policy and thus, carries significant weight in my decision. On this basis, whilst I accept that there would be some benefits to the business and particularly to the appellant in having a permanent dwelling on the appeal site, other means of achieving at least some of those benefits, through the use of technology are available. Even when taking into account, the collective elements of the rural enterprise, I consider that an essential need for a permanent dwelling has not been adequately demonstrated.
18. I therefore conclude that it has not been demonstrated that there is an essential need for a rural worker to live permanently on the site. The proposal would not comply with the relevant requirements of DP Policies SWDP 2, SWDP 19 and the requirements of paragraph 79 of the Framework.

Public footpath

19. The PROW¹⁰ crosses the yard area of the holding via a metal gate at the eastern end of the yard to a wooden foot bridge at the western end. It was obvious from the site visit that given the location of the access points, its users are highly likely to deviate from the line of the PROW shown on the definitive map¹¹. This deviation is likely to take walkers away from the large barn when travelling in either direction, due to a visible desire line.

⁷ 19/02674/FUL - Land Off, Pershore Road, Great Comberton

⁸ NFU, West Midlands Region: Pershore & Upton on Severn Groups dated 3 October 2019

⁹ Paragraph 28

¹⁰ 520(c)

¹¹ Worcestershire County Council – 1:5000 dated 14 November 2018

20. Whilst the proposed development would introduce built development in an area of the yard where there is currently none, there is still the existing storage of machinery and materials. Therefore, I find the effect on the PROW would be somewhat marginal in this respect. Additionally, the evidence I have on this matter is inconclusive, as it appeared when on site that a notable amount of space would be maintained between the site and the large barn. I consider that the current desire line of the users of the PROW between the gate and foot bridge would still be possible, with no requirement for any detours or inconvenience. In this respect the proposed development would have no adverse effect upon the PROW.
21. In any event, the PROW would be protected as shown on the definitive map and there would be an opportunity to enhance the footpath through landscaping of the proposed development. This could be satisfactorily controlled through the imposition of a planning condition.
22. I therefore conclude that the proposal would not have a harmful effect on the PROW. The proposed would comply with the environmental, access and design aims of DP Policy SWDP 21 and the requirements of paragraph 98 of the Framework.

Planning Balance and Conclusion

23. Whilst I accept the absence of other harm arising from the proposed development, including the PROW, and the modest social and economic benefits that would occur from the construction phase of the development and its subsequent occupation, these factors, do not outweigh my assessment of the main issues.
24. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
25. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Stanley Campbell (Agent)

Mr Mark Ricketts (Appellant)

FOR THE COUNCIL:

Mr Gavin Greenhow – Wychavon District Council

APPEAL HEARING DOCUMENTS

FROM THE APPELLANT:

1. Documents relating to planning application: 19/02674/FUL - Land Off, Pershore Road, Great Comberton, comprising: Application Form; Covering Letter; Preliminary Ecological Appraisal and Decision Notice.