



Appeal Decision

Hearing Held on 10 November 2020

Site visit made on 11 November 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/W3330/W/20/3256246

Land at Allshire, Allshire Lane, Brushford, Dulverton EX16 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Geoffrey Brown against the decision of Somerset West and Taunton Council.
 - The application Ref 3/04/19/007, dated 14 October 2019, was refused by notice dated 24 January 2020.
 - The development proposed is to construct a key workers dwelling on land adjacent to the existing commercial and agricultural buildings to support the essential and functional needs of the businesses occupying the land.
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Decision

1. The appeal is allowed and outline planning permission is granted for construction of a key workers dwelling on land adjacent to the existing commercial and agricultural buildings to support the essential and functional needs of the businesses occupying the land at Allshire, Allshire Lane, Brushford, Dulverton, EX16 9JG, in accordance with the terms of the application, Ref 3/04/19/007, dated 14 October 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. Somerset West and Taunton Council was formed on 1 April 2019 following a merger. Provisions within the relevant regulations¹ allow for any plan prepared by one of the merging authorities to be treated as if "*it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates*". As such, the status of the West Somerset Local Plan to 2032 (adopted 2016) (Local Plan) has not changed.
3. The appeal proposal was made in outline form with all matters reserved for future consideration.
4. Following the hearing, further clarification was provided by the appellant in respect of livestock numbers and the use of CCTV equipment for calving.

Application for Costs

5. An application for costs was made by Mr Geoffrey Brown against Somerset West and Taunton Council. This application is the subject of a separate Decision.

¹ Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008

Main Issue

6. The main issue is whether the location and need for the dwelling accords with local policies that seek to limit development in the countryside in order to protect its character and minimise the need to travel.

Reasons

7. The proposal is for a dwelling at the appeal site to serve the businesses owned by the appellant, one of which is a farm (beef and lamb production) and the other of which trades in farm machinery. Agricultural contracting is a subsidiary part of the latter business, undertaken by the appellant and his employees on other farms utilising business-owned machinery. The farm extends to around 140 hectares, with approximately 55 hectares based at Allshire and two outlying blocks of owned grazing land forming the remainder.
8. The farm and farm machinery sales businesses share the same entrance, access lane and yard. The use of the numerous widespan agricultural buildings also appears to overlap to a degree. It is proposed that the dwelling would be sited on a small grass paddock adjacent to the main entrance and close to the largest adjoining machinery storage buildings.
9. The site is approximately 1.6 kilometres from the small settlement of East Anstey and approximately 4.5 kilometres from the village of Brushford. It was agreed by the parties that whilst the site is situated within the context of the farm and business buildings, and some outlying dwellings in Allshire Lane (approximately 400 metres away), it is otherwise in an isolated, open countryside position.
10. Local Plan Policy SD1 is an overarching policy enshrining the presumption in favour of sustainable development. Policy SC1 sets the settlement hierarchy for the Plan area and seeks to direct the greatest proportion of new residential growth in the main settlement of Minehead/Alcombe and the rural service centres, Watchen and Williton. Limited development is expected to occur in the primary villages, including Kilve and Washford. There are a number of secondary villages, including Brushford, where small scale development can be permitted if it can be demonstrated to contribute to wider sustainability benefits for the area.
11. Given the rural context of the site, the proposal for a dwelling does not accord with Local Plan Policy SC1. In such circumstances, proposals are to be considered under Policy OC1 for development in the open countryside.
12. Policy OC1 states that development is not generally appropriate on land outside of existing settlements unless in exceptional circumstances. Relevant to the appeal proposal are the criteria which set out that rural workers dwellings will only be permitted where i) the location must be essential for a rural worker (e.g. agricultural, forestry, horticultural, equestrian or hunting employment), or ii) where the proposal is a new-build to benefit an existing employment activity already established in the area that could not be easily accommodated within or adjoining a nearby named settlement. The parties agreed that though it was more permissive, Local Plan Policy OC1 was in broad conformity with paragraph 79 of the National Planning Policy Framework ('the Framework').
13. The key factors promoted by the appellant as the reason for seeking a rural worker's dwelling on site included the need to be within 'sight and sound' of the

livestock, for the convenience of undertaking farm labour and to provide security for farm machinery, the total financial value of which is considerable. Evidence about the theft of a trailer from the yard was discussed at the hearing and other similar incidences were also explored in more detail. Furthermore, the increased out-of-hours sales and deliveries/collections from the yard (owing to lorries arriving from international locations) was provided as another reason for needing someone on site at all times.

14. The appellant's evidence included a 'standard man day calculation'² for the needs of the farming enterprise. The Council indicated at the hearing that it did not dispute the alleged demand for 4.33 labour units. The main farm employee undertakes a large proportion of this work, assisted by the appellant and other contractors as necessary. No such similar evidence was provided for the farm machinery business, although the main farm employee also presently provides supervision for the farm machinery business during the working day.
15. During the hearing, it was made clear that both the appellant and his main full-time employee lived away from the site and that it typically took them between 15 to 25 minutes to drive to the site. This often resulted in a lot of travel to and from the site when occasions arose during calving which occurs regularly throughout the year rather than during a concentrated period, i.e. Spring. It was also highlighted that the British Blue breed of cow produced at the farm had the highest incidences of caesarean delivery or other such complications owing to their double-muscle structure. The evidence appears to show that 93 births occurred in 2019 and 103 in the year 2017. As such, I anticipate that the number of car movements associated with calving duties and aftercare, in addition to typical labour requirements at the farm, is substantial.
16. The appellant also indicated that since 2018, the business has diversified into producing the calves over a longer period. These changes are set against a large reduction in the number of store lambs produced at the site. Though change to the volume of store lamb production was not anticipated to be a permanent change, recent price rises had made this aspect of the business economically unviable at the present time.
17. During the hearing, detailed accounts information for both businesses was provided for 2017 and 2019. These accounts also provided a snapshot of accounts information for both 2016 and 2018. Both businesses have clearly been profitable between 2016 and 2019 with only one anomaly for the farm in the 2019 financial year. This anomaly is a result of the retention of livestock for a longer period. The effects of this elongated production process are anticipated to be outweighed by enhanced profitability in the current financial year and going forward. Furthermore, planning permission was secured in 2019 for two additional widespan agricultural buildings, both of which have been constructed. This indicates that recent investments have been made to secure the longevity of the farming enterprise.
18. Whether there had been any other changes since an earlier dismissal of an appeal on the site³ also formed part of the hearing discussion. It was highlighted that since 2015, poultry farming was no longer undertaken and that the existing poultry units are sublet. Additionally, the bungalow located at Allshires Lane, whilst not being geographically distant from the site, was still

² Standard man day calculation taken from the 'Farm Management Pocketbook' 49th Edition - 2019

³ APP/H3320/A/14/2224266 dated 20 January 2015

unavailable due to it being occupied by longstanding tenants. That this unavailable dwelling would still be beyond 'sight and sound' of the farm was another reason for seeking the alternative dwelling based at the shared entrance.

19. In terms of security, I heard that the Council considered the farm machinery sales to be akin to a car dealership in a suburban industrial estate that should not result in a need for a dwelling in addition to other typical security measures. During my site visit, I noted the isolated rural location of the site and considered that it was unlikely that the general presence of individuals could act as a deterrent as would be more likely in a suburban setting. I also noted the appellant's use of electronic security gates, fencing and a ditch landscape feature around the main yard for security, but that there were limited other security features that could be installed without harm to the character and appearance of the area.
20. The Council was asked to provide a view as to the necessity for a 'temporary' dwelling as set out in Policy OC1. In this case, given the longevity of the businesses on site and their financial stability, the Council did not consider that such a temporary restriction would need to apply.
21. Drawing together this main issue, it became clearer throughout the hearing and subsequently at the appeal site visit, that whilst the Allshires farming base is compact, there is sufficient labour and livestock welfare justification for a dwelling to be based there, even if an adjustment is made to account for the reduction in store lambs. The additional convenience, security and business growth aspirations add to the justification for a dwelling to be based at the shared entrance to serve the intertwined needs of both businesses.
22. Whilst the dwelling would be relatively isolated from local settlements and facilities and therefore, unlikely to enable future occupiers to access a range of sustainable travel modes, it would at least be located to minimise the need for regular travel to and from work by an employee of both businesses. The dwelling could provide the convenience and stability for the businesses to continue to provide local employment and wider economic benefits.
23. As such, having further regard to the above, I consider that the proposal complies with, in particular, Policy OC1 of the Local Plan. For similar reasons, it would also comply with paragraph 79 of the Framework.

Other Matters

24. I note the agreement between the parties in respect of matters in relation to the impact on highways, flood risk and protection of best and most versatile agricultural land. The absence of harm is a neutral factor in the overall balance.

Conditions

25. I have considered the conditions in light of paragraph 55 of the Framework and the Planning Practice Guidance. I have undertaken some minor editing in the interests of precision and clarity.
26. Given the outline nature of the proposal, standard conditions are required to seek the timely submission of reserved matters and implementation of the approved development. The standard plans condition is also required to define the extent of the site location area.

27. Whilst the Council suggested a condition in relation to landscaping, this would be addressed by the future reserved matters application.
28. Owing to the restrictive policies relating to residential development in the countryside, it is necessary to impose a condition restricting the occupation of the dwelling to one associated with the linked businesses. Whilst the Council indicated a preference for the use of a planning obligation for this purpose, the Framework indicates that they should only be used where it is not possible to address unacceptable impacts through a planning condition. I consider that a planning condition would adequately restrict the occupation of a dwelling and have framed such a condition to apply to the circumstances of the case.
29. It is also necessary to seek the implementation of adequate drainage infrastructure to serve the development by way of a planning condition.

Conclusion

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

Hollie Nicholls

INSPECTOR

DOCUMENTS SUBMITTED

Document 1	List of suggested conditions from the Council
Document 2	G.S. Brown Esq Unaudited Accounts 2019
Document 3	G.S. Brown Ltd Unaudited Financial Statements 2019
Document 4	G.S. Brown Esq Unaudited Accounts 2017
Document 5	G.S. Brown Ltd Unaudited Financial Statements 2017

APPEARANCES

FOR THE APPELLANT:

Mr Geoffrey Brown	Appellant
Ms Kim Walker DipTPS MRTPI	Planning Consultant
Mr Kevin Bateman MRICS FAAV MIAgrM	Director – Bateman Hosegood

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alex Lawrey MCD LRTPI	South West Taunton Council
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SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Block Plan.
- 5) The occupation of the dwelling hereby approved shall be limited to:
 - i) a person solely or mainly working or last working for G.S. Brown Ltd and/or G.S. Brown Esq and the widows, widowers or civil partners of the above and any resident dependants; or,
 - ii) a person solely or mainly working, or last working, in either an agricultural or rural enterprise in the locality where there is/was an identifiable functional need and the widows, widowers or civil partners of the above and any resident dependants.
- 6) Prior to first occupation of the dwelling hereby permitted, works for the disposal of sewage and surface water drainage shall be provided on the site in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The works shall thereafter be retained and maintained in that form.