
Appeal Decision

Hearing Held on 18 November 2020

Site visit made on 19 November 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2020

Appeal Ref: APP/W1850/W/20/3251167

**Land adjacent to Morgans Farm, Gypsies Lane, Kilcot, Herefordshire
GL18 1PQ**

- 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 Nigel Harris against the decision of Herefordshire Council.
 - The application Ref 193091, dated 16 August 2019, was refused by notice dated 3 December 2019.
 - The development proposed is the positioning of a timber clad static caravan as an agricultural dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (1) whether there is sufficient agricultural justification for a dwelling in the countryside location, set outside of any settlement; (2) the effect of the development on the character and appearance of the area; and (3) the effect of the development on highway safety.

Reasons

Justification for residential development in countryside location

3. The site is a field within the countryside, in an area approximately 3 miles from Newent. There are other dwellings in the area, though they are dispersed throughout this rural landscape.
4. Policy SD1 of the Herefordshire Local Plan (the Local Plan) states that as part of sustainable development, new proposals should be sustainable and accessible. In this case, the site is remote from public services and facilities, including schools and shops. It is also a considerable distance to the nearest bus stop. It may be possible to cycle to larger settlements but is less of a viable option in inclement weather or in the evenings when dark, especially considering the narrow roads and lack of street lighting in the area of the site. As a dwelling, such a lack of accessibility by means of transport other than the private car would weigh significantly against the proposal and would be contrary to the relevant sustainable transport aims of the National Planning Policy Framework (the Framework). Furthermore, policy RA3 seeks to restrict new residential development in rural locations outside of settlements.

5. In this case, however, the proposal is for a dwelling for the appellant to live in within the field where he intends to work to produce an income as a rural business. Policy RA4 of the Core Strategy allows for dwellings associated with agriculture or rural businesses where it can be demonstrated that there is a sustained essential functional need for the dwelling, and this forms an essential part of a financially sustainable business.
6. Currently, the land is overgrown with no clear agricultural or other commercial activity taking place within its boundaries. The appellant has set out a business plan which is focussed primarily on keeping bees to produce honey. Other aspects of the business would include keeping of pigs and sheep, together with selling fruit from the trees on site. Honey from the bees would be the main source of income, although there is no current production and even when started this would take some years to scale up to allow the site and its commercial activity to be a financially sustainable business. The appellant has suggested about five years before an income of approximately £20,000, although this does not include any costs deductions.
7. As such, there is no clear evidence of an established business. The business is a plan for the future, to utilise the land for an income which would be developed over several years. In this regard, policy RA4 does allow for temporary dwellings for a period of three years to allow evidence to be gathered to demonstrate there is a financially sustainable business where a new permanent dwelling could be justified. However, it is apparent based on the evidence that three years would not be sufficient for the business to grow to be self-sufficient or allow the appellant to work full time on this land. It is my conclusion that it would be unlikely after three years that the commercial activity on site would be sufficient to demonstrate a viable and sustainable business. In any case, the appellant has also made clear that the caravan, when clad and with new windows, would be a long term solution, with no prospects or time scale for its replacement by a new dwelling. On this basis, the proposal would essentially not be a temporary dwelling and would therefore not be able to meet with policy RA4 in its provision for temporary dwellings in rural areas where a new business is starting.
8. Moreover, although I have no doubt that the appellant is sincere in his desire to develop the land and a business based primarily on the sale of honey from bees, the business plan is not convincing. There is no clear timeline with some vague statements about possible future aspects of the business. It is clear from the discussion at the Hearing that there are possible variables which could significantly undermine the business in the future. For instance, there seems to be some doubt as to the practicalities of keeping pigs at the field due to regulatory requirements. Even considering the objectives of the business plan, I am not sufficiently satisfied that this is a sustainable business for the long term. As the dwelling is proposed for the long term, this weighs against the proposal as it could result in a dwelling in the countryside, in an inaccessible remote location, but with no substantive agricultural/rural business on this site to justify it being there.
9. Even if there was a convincing business plan which demonstrated that this is a commercial venture with a high probability of long term sustainable growth, there is also the question of whether the dwelling needs to be on site anyway. This is the essential functional need, as set out in policy RA4. To my mind, I have no substantive evidence that there would be a need for the appellant to

live at the site, rather than approximately 3 miles away as currently the case. Even with pigs and possibly sheep at the site, it has not been satisfactorily demonstrated that for animal husbandry purposes a dwelling is needed to be in essentially the same field. Furthermore, I am not convinced that beehives would need a dwelling in such close proximity.

10. The appellant's stated that in storms the hives may be blown over or damaged. However, it could be that when a storm is expected that the appellant, who would likely be at site during the day, could take steps to prevent such damage, for example.
11. Security was also raised, but from the discussion at the Hearing it seems apparent that this is not an area known for high levels of crime. Although still a threat, I am not satisfied that this is a reason in itself for a 'semi-permanent' dwelling at the site. Furthermore, there could be other possible solutions to this issue, which does not appear to have been fully considered at this point by the appellant.
12. In this regard, the appellant would likely be at the site most days for long periods of time if the business was successful in its development. However, there is not the evidence for the need for anything like 24 hour on-site management from the proposed dwelling as part of an essential functional need. To my mind, it is likely that the business plan could be developed with the appellant just living in the area and not necessarily living on-site.
13. For all these reasons, there is not the justification for an agricultural/rural enterprise dwelling in this otherwise remote countryside location. Without such justification the clad caravan would be a new dwelling in an inaccessible location, isolated from services and facilities to such an extent that the proposal would be contrary to the Framework's aims of minimising the need to travel and supporting the transition to a low carbon future. I therefore conclude that the appeal scheme would conflict with policies SD1 and RA4 of the Herefordshire Local Plan – Core Strategy. These policies require development to be in an accessible environment and for agricultural/rural enterprise dwellings to have an essential functional need and be part of a financially sustainable business.

Character and Appearance

14. Currently, there is a static caravan on site, although set away from the field access. The proposal would see it set nearer to the access and would be more visible from the highway. Set within the field in a rural location, this singular caravan would appear incongruous and visually jar with the rural character of the area. However, this is not disputed by the appellant, who intends to clad the caravan in timber and replace the windows, amongst other things.
15. With the proposed improvements, considering the modest scale of the structure, it could be that the proposed dwelling would be visually acceptable. The Council are concerned with the time this would take, given the caravan is already on site, but the appellant says much of the work could be done within six months. Such details could be required by condition, which if agreed would seemingly overcome the Council's concerns about the appearance of the dwelling in this rural location.

16. As the appellant clearly proposes visual improvements to the static caravan which could be agreed with the Council via condition, it is my conclusion on this main issue that this matter does not warrant refusal of the proposal. In this regard the proposal accords with policy LD1 of the Herefordshire Local Plan – Core Strategy, which required development to demonstrate that the character of the landscape has positively influenced the design, amongst other things.

Highway Impact

17. The proposal is to utilise the existing access, which currently has a field gate as a typical agricultural access. There would be a replacement gate, but there does not appear to be extensive works proposed otherwise. The access would be onto a 60mph section of road, although from the evidence it is clear that there is a low volume of traffic along this route. The state of the surfacing could also keep speeds of passing vehicles low. Nonetheless, the new dwelling on the site would likely increase the usage of the access above existing levels. Even if the business plan was put into action and the commercial activity across the field intensified there would still be the addition of a dwelling on site, which overall is likely to increase usage and trips to and from the site. There is no substantive evidence to the contrary of this conclusion.
18. The field currently has a poor level of visibility, particularly to the right when exiting the field. Given that vehicles could be travelling legally at 60mph along the lane this could cause a significant highway safety risk, increased further with additional trips generated by a dwelling on the site.
19. Currently, the appellant has submitted an access plan which shows vision of just 7m to the right hand side when exiting the site. From the comments from the Transport Officer at the Council splays of 20m x 2.4m would be required, which is significantly more than what is shown on the access plan.
20. The appellant has stated at the Hearing that the access could be moved, or the vision splay widened as he has control of the land along this boundary. However, whilst this may be achievable, it may result in a significant loss of hedgerow and possibly trees which have not been properly assessed at this time as this has not been formally proposed with a plan. As such, I have concerns that even if the access splays could be achieved there could be other adverse effects as a result. I therefore do not regard there as being a reasonable basis to depend on a condition to overcome this issue, due to the potential of other significant harm even if the visibility was achieved.
21. Therefore, based on the submitted details, the visibility at the access would not be adequately safe in highway terms. This access would also likely see increased use as a result of the proposal. Therefore, the proposed development is contrary to policy MT1 of the Herefordshire Local Plan – Core Strategy. This policy requires development to ensure that developments achieve a safe entrance and exit, amongst other things.

Planning Balance

22. It is apparent that the Council cannot currently demonstrate a sufficient housing land supply for the area or district. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission

should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

23. It could be that the dwelling would provide some benefit for the appellant and his plans for the site (although not sufficient to justify a new dwelling on this site in a countryside location, being my conclusion above). The new dwelling could also boost housing land supply locally, but as a single dwelling the benefit would be limited. I also recognise that the appellant has a connection with the site and the area, to which he wishes to return to live.
24. However, the harm I have identified due to the lack of justification for a new 'semi-permanent' dwelling in this remote location, together with the highway safety impacts, would significantly and demonstrably outweigh the benefits, when considering the policies of the Framework as a whole.

Conclusion

25. For the reasons outlined above and with regard to all matters raised, the appeal should be dismissed.

Steven Rennie

INSPECTOR

APPEARANCES

The Appellant:

Mr Nigel Harris

For the Council:

Mr Mark Tansley
BA(Hons)MRTPI
Development Manager - Enforcement

Mr Scott Low
Certificate in Planning
Enforcement
Planning Enforcement Officer

Interested Party:

Mr Stephen Wheeler

Late Representations:

Details of the proposed cladding were received from the Appellant.

Recommended conditions from the Council, with comments from the Appellant, also received after the Hearing.