



Appeal Decision

Hearing Held on 18 January 2021

Site visit made on 19 January 2021

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Appeal Ref: APP/D0840/W/20/3254432

Merry Meadows Farm, Road From Junction South Of Bowling Green To Treskilling, Bowling Green, Bugle PL26 8RN

- 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 Miss Ruth Edgell against the decision of Cornwall Council.
 - The application Ref PA19/08677, dated 28 September 2019, was refused by notice dated 27 January 2020.
 - The development proposed is described as Retention of a hardstanding area and sheds for agricultural purposes; use of a mobile shepherd's hut as a temporary agricultural worker's dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for hardstanding area and sheds for agricultural purposes and use of a mobile shepherd's hut as a temporary agricultural worker's dwelling at Merry Meadows Farm, Road From Junction South Of Bowling Green To Treskilling, Bowling Green, Bugle PL26 8RN in accordance with the terms of the application, Ref PA19/08677, dated 28 September 2019, and subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by Cornwall Council against Miss Ruth Edgell. This application is the subject of a separate Decision.

Preliminary Matters

3. As I observed on my site visit, the proposed buildings on the appeal site have been constructed. I have dealt with the appeal on this basis, albeit omitting the text 'retention of' from the description of development in my decision because such words do not describe acts of development.

Main Issues

4. The main issues are:
 - Whether the proposed development would harm the character and appearance of the surrounding area; and
 - Whether the proposed development would be in a suitable location, with particular regard to development in the countryside and whether there is an essential need for there to be worker accommodation on the agricultural holding.

Reasons

Character and appearance

5. The appeal site is situated within what the main parties agree is an agricultural smallholding. The site includes the access track leading from the highway to the north-west and a relatively small area of hardstanding, which was previously open and undeveloped, where the sheds and mobile shepherd's hut now stand. Known as Merry Meadows Farm, the smallholding covers approximately 32 acres, includes areas of fields/pasture and woodland, and is set in a green bowl-like area with rising land all around. The site lies within the Mid Cornwall Moors Landscape Character Area CA20 of the Council's Cornwall and Isles of Scilly Landscape Character Study (LCS). The surrounding area contains some scattered development – including dwellings and various rustic buildings/barns – situated outside of the nearby settlements of Rescorla and Bowling Green, and includes extensive areas of undeveloped farmland, woodland and moorland.
6. The site and surrounding area therefore have a rural, agricultural and verdant character and appearance and exhibit several of the characteristics identified in the LCS. However, I observed on my site visit that existing development in the locality displays a mixed appearance given the various materials used, including walls made of stone, painted stone, wood and metal and others finished with render and slate.
7. Due to topography and the position of the site in relation to existing woodland and other natural features, it is generally not possible to see the appeal proposal in public views from the north, east and south. However, given its open and set-down nature and the rising land in the locality, the yard area and buildings can be seen from, amongst other aspects, the public right of way that runs from Rescorla in a south easterly direction, between some existing development, and through field gates and above hedges along the highway between Bowling Green and Rescorla. However, the available views are generally limited to relatively long distance glimpses. I observed on my site visit that the appeal proposal is also seen within the context of the surrounding scattered development which includes various dwellings and barns.
8. Although it has been put to me that the proposed sheds have a somewhat domestic appearance, they and the shepherd's hut have a rustic look with an appearance that respects and reflects their rural, agricultural setting. The proposed buildings are relatively modest in size and have an unassuming appearance given their generally natural, muted colours. Although situated on the edge of the smallholding's main area of open pasture, they are positioned within the contained setting of the hardstanding yard area, on the edge rather than in the middle of the open area of the green bowl. They are also near to woodland which partly screens them from the surrounding area and provides a wooded backdrop from other vantage points.
9. Accordingly, the proposed development does not appear incongruous or out of character in relation to its context and would not harm the landscape character of the surrounding area. Given the nature and appearance of the appeal proposal and its degree of separation to Bugle, Rescorla and Bowling Green, neither would it read as an intrusion of the built envelope of nearby settlements into the open countryside. Although it would likely take a little while to establish, the proposed landscaping of the site would further reduce

the visibility of the development in the locality and result in it further blending into its verdant, wooded surroundings.

10. In coming to this view, I have taken account of the concerns I heard at the Hearing from the Council in relation to other features on the smallholding, such as the chicken tractor, and that further features such as polytunnels and more development would be likely to be required in future if the appeal proposal were allowed and the farm enterprise expanded. Whether or not a single multi-use building could have been provided instead and the fact that the sheds proposed do not benefit from permitted development rights – given their proximity to the dwelling at Nyth Barn and that they have already been constructed – do not lead me to a different conclusion.
11. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area. I therefore find that it would not conflict with Policies 2, 21 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP). Amongst other aspects, these encourage the best use of land taking into account the character of the surrounding area and require development to respect quality of place and sustain local distinctiveness and character. The proposal would also: accord with the requirement of CLP Policy 5 for business space in the countryside to be of a scale appropriate to its location; and be consistent with the provisions in the National Planning Policy Framework (Framework) including in relation to achieving well-designed places and conserving and enhancing the natural environment.

Location

12. The site comprises agricultural land and is located outside of the nearest settlements of Rescorla and Bowling Green. Accordingly, the exceptions in CLP Policy 3 such as in relation to infill, rounding off and use of previously developed land within settlements do not apply to the appeal scheme. However, as the site is within open countryside, CLP Policy 7 is applicable and allows for new dwellings in the open countryside where there are special circumstances, including on-site rural worker accommodation.
13. It has been put to me that part 4 of CLP Policy 7 was written with the intention for it to be applied to large commercial farms which employ seasonal migrant workers. Be that as it may and although that part of the policy does refer to seasonal migrant workers, it does not restrict the provision to them only and instead sets out that temporary accommodation for workers will be allowed in the open countryside subject to certain matters. The appellant confirmed at the Hearing that this is what is sought, with the shepherd's hut providing agricultural worker accommodation on the smallholding for a three year period. Although it has been put to me that the appellant will presumably ultimately seek a permanent dwelling, that is not what has been applied for. I have therefore determined the appeal on the basis that the shepherd's hut would provide temporary agricultural worker accommodation and have considered it against, amongst other matters, the requirements of part 4 of CLP Policy 7.
14. The appellant purchased Merry Meadows Farm, which the main parties agree is a smallholding, in 2017 and the evidence before me indicates that it has been operating as an agricultural enterprise since then. As part of the enterprise, the appellant owns and runs the Cornish Black Pigs website, which has been operating for several years and sells products from the farm. Accordingly, and

notwithstanding the Council's enforcement action in relation to the appeal scheme, it seems reasonable to me to describe the smallholding as an established rural business.

15. The majority of the financial information submitted with the appeal is indicative and sets out the appellant's intentions/plans for the enterprise rather than accounts showing actual revenues and profits. On this basis, and given the various errors and omissions with the figures as highlighted by the Council and accepted by the appellant during the Hearing, I place limited weight on the financial figures within the submitted cash flow spreadsheets and business plan. However, I heard at the Hearing that it is not unusual for businesses to not make a profit in their first few years, that Merry Meadows Farm made a small operating profit (excluding some costs such as capital items) in 2019, and that the Covid pandemic significantly limited business opportunities – such as selling produce at local markets – in 2020.
16. Furthermore, it seems to me that profit, although clearly important to viability, cannot reasonably be identified as the sole attribute of whether a growing business will prove to be a feasible, successful and enduring enterprise. In this case, although the extent of land on the holding remains the same as the previous application for a similar scheme on the site, it has clearly expanded since the appellant acquired the smallholding. For example, there has been a notable increase in livestock numbers since the previously refused application. Numbers have also increased since the application the subject of the appeal was determined by the Council, while investment has continued in items such as equipment, fencing and services including mains water. Furthermore, while some plans such as selling fruit and juice from the future planting of trees may not be imminent, I have been presented with various plans for expansion, such as market gardening and pastured broilers.
17. If successful, they would be likely to provide additional income in a relatively short period. As demonstrated by the submitted seed inventory and the presence of planting beds on the smallholding, the market gardening in particular appears to be progressing. I heard at the Hearing that the pastured broilers can also be scaled up relatively quickly. Although some aspects of the proposed expansion, such as delivering produce to Glastonbury may prove unrealistic, there nevertheless appears to be a reasonable prospect of the above such ventures developing and, thus, the enterprise expanding. The local climate, including strong winds and future climate-related changes, do not lead me to a different conclusion.
18. Accordingly, whilst the submitted evidence does not necessarily demonstrate the long-term viability of the current enterprise, I am satisfied that it cannot reasonably be described as unpracticable and unviable within the period sought by the appellant for the temporary use of the shepherd's hut on the smallholding. The granting of permission for a temporary agricultural worker's dwelling would also reflect the consideration set out in the Planning Practice Guidance (PPG) in relation to whether it is appropriate to consider granting permission for a temporary dwelling for a trial period in the case of new enterprises. In this instance, allowing the temporary siting of the shepherd's hut would provide the time necessary for the business, although already established, to continue developing to the point where it would have had sufficient opportunity to grow and demonstrate its enduring viability.

19. Neither the CLP nor the Framework define what constitutes an essential need. The Council has referred to Annex A of Planning Policy Statement 7 (PPS7) as providing well-established tests and a helpful guide in relation to this matter. However, as PPS7 is no longer extant, it carries no weight in the determination of the appeal. Nevertheless, the PPG sets out that there could be a number of considerations which may be relevant to take into account. Amongst other aspects, this includes evidence of the necessity for a rural worker to live at their place of work to ensure the effective operation of an agricultural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products).
20. The current enterprise is relatively small. The evidence before me also indicates that the work tending to the current level of livestock on the smallholding does not equate to anywhere close to full time employment in relation to the Standard Man Day calculation as per the John Nix Farm Management Pocketbook. However, despite being a useful barometer, such calculations do not of themselves indicate whether or not there is an essential need and neither part 4 of CLP Policy 7, the Framework nor the PPG require the work on the holding to be full-time. It also seems to me that simply because an enterprise is relatively small, and not for example a large farm, it does not necessarily mean that there cannot be an essential need for a worker to live on-site to ensure, amongst other things, the care and security of animals and the holding.
21. In this instance and although not present in substantial numbers, the livestock on the holding – which have increased in number since the previous planning application and include boars, sows, gilts, piglets/weaners and laying hens – clearly require daily care throughout the year. I heard at the Hearing that pigs often escape, care demands vary during the different seasons, the farrowing sows and piglets in particular need attending to and checking more regularly, and that the herd size will increase further as the gilts are being raised to become breeding sows. The animals may also need emergency attention at any time of the day or night, including outside regular hours of work. With the smallholding and livestock spread out over a relatively wide area, and without mains electricity, features such as additional fencing and CCTV would neither be feasible nor provide the security and/or monitoring of the animals that is required to ensure their continued health. This, combined with the history of crime on the site, including the harming of livestock when the appellant was away from the site and unsubstantiated reports of poaching, indicates that there is a need for an on-site presence.
22. The actual amount of time needed to tend to the current numbers of animals on the smallholding is well below that of a full time worker. Other parts of the enterprise, such as the planned market garden, tree planting and improving and maintaining soil quality and fencing etc, are labour intensive and clearly take up much of the appellant's remaining time. However, they do not require a constant on-site presence. Nevertheless, as set out above, there is a need for a presence on the holding which could not be fulfilled by the appellant living away from the site, and although part 4 of CLP Policy 7 requires there to be an essential need for a presence on the holding, it does not set out that this must equate to full time work.

23. In addition to the above matters, part 4 of CLP Policy 7 also requires there to be no other available suitable accommodation and for the proposed temporary accommodation to be of a construction suitable for its purpose and duration. In this case, although the Council have not alleged that the shepherd's hut would be unsuitable, they have identified some alternative accommodation available in the vicinity of Bowling Green.
24. However, were the appellant to reside in one of the alternative properties identified by the Council or elsewhere in the wider area or further afield, the lack of on-site presence would, for the reasons given above, result in insufficient care and security being provided for the animals and the holding. In terms of the future growth and viability of the smallholding, the appellant also indicated at the Hearing that they could not afford to purchase a house in the area and that renting would reduce the amount of money she has available to put into the business. From the evidence before me and from my site visit observations, I am satisfied that the shepherd's hut is sufficiently constructed to provide suitable, year-round accommodation over the temporary period requested. Being moveable and relatively small, it is also better suited to a temporary permission than a more permanent construction would be.
25. For the above reasons, I conclude that the proposed development would be in a suitable location, with particular regard to development in the countryside and whether there is an essential need for there to be worker accommodation on the agricultural holding. I therefore find that it would not conflict with CLP Policies 3 and 7. In coming to this view, I have taken account that permission would run with the land rather than being a personal permission.
26. I heard at the Hearing that other than the need to comply with the CLP policies covering character and appearance set out above, the Council does not allege that there is anything in the local plan that specifically seeks to direct or restrict the agricultural-related parts of the appeal scheme to certain locations. Accordingly, given I have found that the development would not harm the character and appearance of the surrounding area, I am satisfied that the proposed area of hardstanding and the sheds are also in a suitable location.
27. The shepherd's hut is not located a significant distance from existing buildings – including other properties – to the north and is also positioned near to the sheds on the site. The appeal proposal cannot therefore be described as leading to the development of an isolated home in the countryside. Serving a rural enterprise and with the appellant being likely to make use of the local services and facilities, the appeal scheme would also support the vitality of the rural community. It would therefore be consistent with the provisions in the Framework in relation to rural housing. In coming to this view, I have taken into account that local services are said by the Council to neither be unviable nor at risk of imminent closure.

Other matters

28. The appeal follows a previously refused planning application for the same proposal and is for a retrospective development that was carried out without planning permission. However, from the submitted evidence and what I heard at the Hearing, I am satisfied that it cannot reasonably be described as intentional unauthorised development.

29. The site lies within a Mineral Safeguarding Area of known china clay resource and it has been put to me that the proposed development would effectively sterilise the mineral resource underlying the site. However, with the main parties agreeing that the site is an agricultural holding, and although the existing sheds the subject of the appeal are currently unlawful, the evidence before me does not indicate that other agricultural buildings could not be erected on the smallholding under permitted development rights. Accordingly, I am satisfied that the agricultural sheds the subject of the appeal would not harm potential future mineral extraction from the site or the wider holding to a greater extent than what could occur in any event.
30. The other aspect of the appeal proposal is the agricultural worker's dwelling. However, as noted in the Minerals Policy Consultation response on the planning application, the shepherd's hut is proposed to be situated on the site for a temporary period and would thus not result in the permanent prevention of potential future extraction of the site's potential mineral resource. Accordingly, I concur with the conclusion of the Minerals Team that the appeal proposal would not conflict with Policy MS1 of the Minerals Safeguarding Development Plan Document (MSDPD). Were further development that requires planning permission to be proposed on the site or elsewhere on the smallholding in the future, such as a permanent dwelling as suggested by the Council, sufficient evidence could also be provided at that point in relation to mineral safeguarding and to meet the requirements of MSDPD Policy MS1 and CLP Policy 18 as necessary.
31. It has been put to me that the site is not within a sustainable location with particular regard to accessibility to local services and facilities. Although local services and facilities are not a significant distance away, the site is situated in a rural area with relatively limited transport options available. The occupiers of the proposed development are therefore likely to rely on the private vehicle for many of their journeys. However, this is likely to be the case for rural areas in general. The Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and sets out that sites to meet local needs in rural areas may have to be found in locations that are not well served by public transport. In this instance, allowing a temporary worker's dwelling on the site would avoid the need for what would likely be frequent trips to and from the site in order to check and work on the smallholding. Given agricultural land also tends to be in rural areas, it seems to me that on-site rural worker accommodation is, more often than not, likely to involve an unavoidable use of private vehicles.
32. The site is adjacent to the Mid Cornwall Moors Site of Special Scientific Interest (SSSI) and the Council's Officer Report raised concerns regarding the potential effects of the proposed development on protected species on the site. However, the Council confirmed at the Hearing that protected species is not a reason to seek to refuse planning permission on the site. It is also not alleged that the appeal proposal would harm the SSSI or its features, Natural England did not object, and their consultation response sets out that the development is not likely to result in significant impacts on designated sites. On the basis of the submitted evidence, I have no reason to disagree with this.
33. My attention has been drawn to a number of other policies in the CLP which the Council consider are relevant to the appeal scheme, including Policies 1, 5, 12 and 27. However, the Council has not alleged that the proposed development

would be contrary to any of these policies and from the evidence before me and what I heard at the Hearing, I concur with this.

Conditions

34. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and to ensure that details are submitted to and considered by the Council where relevant.
35. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. I have imposed conditions relating to the temporary nature of the accommodation and its occupancy on the basis that the appeal has been made for use of the mobile shepherd's hut as a temporary agricultural worker's dwelling, as per CLP Policy 7. However, following discussion with the main parties at the Hearing, I have amended the Council's suggested time frame of two years because a three year period is what the appellant seeks and it seems to me to be a more reasonable and realistic time frame for the plans to grow the business to progress.
36. In the interests of the character and appearance of the surrounding area, I have imposed conditions relating to landscaping of the site and the removal of the agricultural structures if they are no longer in use for a period after the date of this decision. Given the site's location in relation to surface water flooding and issues regarding the disposal of waste water as highlighted by the Parish Council, a condition is also necessary to ensure the adequate provision of surface and foul water drainage on the site.

Conclusion

37. For the above reasons, the appeal is allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Figure 1 Location Plan; Location and Block Plan (A01); Existing elevations (A02); and Existing Elevations (A03).
- 2) The occupation of the residential accommodation shall be limited to a person solely or mainly working, or last working, in the locality in agriculture as defined by section 336 (1) of the 1990 Town and Country Planning Act (as amended), or in forestry, or a widow or widower of such a person, and to any resident dependants.
- 3) The residential accommodation hereby permitted shall be removed on or before the expiry of three years from the date of this permission and the part of the site where it was situated shall be restored to its former condition in accordance with a scheme of works that has been submitted to and approved in writing by the local planning authority within 12 months of the date of this permission.
- 4) If, within ten years of the date of this decision the use of the structures for agricultural purposes permanently ceases and, within a further three years, planning permission has not been granted for an alternative use, and there is no outstanding appeal, the structures shall be demolished, the materials removed from the land and the land restored in accordance with a scheme of work (including an implementation programme) that has been submitted to and approved in writing by the local planning authority within 12 months of the date of this permission.
- 5) Within 3 months of the date of this permission, details of a system to serve the development for the disposal of foul and surface water drainage shall be submitted to the local planning authority. The details shall include a programme for maintaining the system if required. Within three months of the local planning authority's written approval, the approved system shall be provided on the site in accordance with the approved details. The system shall be retained and maintained thereafter in accordance with the approved details.
- 6) Within 3 months of the date of this permission, a scheme of landscaping shall be submitted to the local planning authority. The landscaping scheme shall provide planting plans with written specifications including: details of all existing trees and hedgerows on the site; full schedule of plants; details of the mix, size, distribution and density of all trees/shrubs/hedges; and cultivation proposals for the maintenance and management of the soft landscaping. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the written approval of the landscaping scheme by the local planning authority. Notice shall be given to the local planning authority when the approved landscaping scheme has been completed. Any trees or plants which within a period of five years from the completion of the approved landscaping scheme are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT

Miss Ruth Edgell	Appellant and owner of Merry Meadows
Mr Simon Smith	Director, En-Plan, Appellant's agent
Mrs Jenny Edgell	Appellant's mother

FOR THE COUNCIL

Mr James Holman	Principal Development Officer
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DOCUMENTS SUBMITTED AT HEARING

Seed inventory MMF (spreadsheets)

Photograph of the site

MMF 5 year cash flow (spreadsheets)