



Appeal Decision

Hearing Held on 29 June 2021

Site Visit made on 30 June 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2021

Appeal Ref: APP/E2340/W/21/3267155

Cowfield Farm, Burnley Road, Trawden BB8 8PP

- 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 Robert Airey against the decision of Pendle Borough Council.
 - The application Ref 20/0198/FUL, dated 6 March 2020, was refused by notice dated 5 August 2020.
 - The development proposed is the re-siting of an existing temporary farm workers dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was originally made by Mr Robert Airey against Pendle Borough Council but during the hearing the appellant withdrew the application. This was subsequently confirmed in writing and therefore no action is required in this regard.

Preliminary Matters

3. The description of development set out on the Council's decision notice differs from that provided in the original planning application and subsequent appeal documentation. I have therefore used the description as set out in the planning application form but have removed superfluous wording that does not describe an act of development. This wording was agreed by both main parties at the hearing, and I have therefore dealt with the appeal on this basis.
4. The evidence refers to policies 1, 6, 10, 13, 17 and 24 of the Replacement Pendle Local Plan 2001-2016 (adopted 2006) (the RPLP). However, during the course of the appeal proceedings, and in advance of the hearing, the Council confirmed that these policies are no longer 'saved' as they were replaced by the policies of the Local Plan for Pendle Core Strategy 2011-2030 (the Core Strategy), when it was adopted in December 2015.
5. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021, after the hearing was closed. I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party.

Main Issues

6. Since the appeal was lodged, the Council has withdrawn its sole reason for refusal as it considers that it can no longer substantiate an objection based on essential need for an agricultural worker's dwelling. Notwithstanding this, the appellant has

chosen to pursue the appeal under section 78 of the Town and Country Planning Act 1990, as is their statutory right. Therefore, the main issues have been informed by the matters raised by interested parties and by the duty set out at section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires me as decision maker to, owing to the site's location within a conservation area, pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

7. Accordingly, the main issues are:

- Whether, having regard to local and national planning policies that seek to avoid isolated homes in the countryside, there is an essential need for a dwelling to accommodate a rural worker; and,
- Whether the proposal would preserve or enhance the character or appearance of the Trawden Forest Conservation Area.

Reasons

Background

8. Cowfield Farm was previously owned by the appellant's father but following his death the holding was split between the appellant and his sister, Mrs Halstead, and is now farmed by them both in partnership.
9. The farmstead is located in the open countryside, approximately 1 mile to the west of the village of Trawden, and includes a two storey stone built farmhouse and a mix of modern and traditional agricultural buildings, with the land holding extending to approximately 74 acres (30 hectares) of predominantly agricultural grassland. The agricultural enterprise currently comprises a breeding herd of 30 suckler cows with calves at foot, a further 6 heifers (with 5 in calf) and 1 bull. Hay and silage are taken as a crop from the land and the business is supplemented by letting some of the land and buildings to other farmers in the locality.
10. At the hearing I was informed that the appellant owns approximately 75% of the working capital of the enterprise (stock, machinery, feed, etc.), with the remainder owned by Mrs Halstead. Of the land and buildings, the appellant owns 25 acres and three of the existing 10 agricultural buildings, with Mrs Halstead owning the remaining 49 acres, seven buildings and the farmhouse, in which she currently resides.
11. The appellant currently resides at a property in the nearby town of Nelson and is employed on a part-time basis in the current agricultural enterprise. However, the appellant now seeks to establish his own agricultural enterprise at Cowfield Farm in partnership with his partner and independent of his sister. Nevertheless, Mrs Halstead would retain her ownership of the land and buildings and rent them to the appellant as part of the new agricultural enterprise.
12. To this end, and without the benefit of planning permission, in 2017 the appellant constructed a timber lodge adjacent to the farmstead for himself and his partner to reside in. Following an enforcement investigation by the Council, an application for planning permission¹ was made and refused due to the adverse effects of the building on the character and appearance of the surrounding area. A subsequent appeal² was dismissed on this basis.

¹ Application Ref. 18/0043/FUL

² Appeal Ref. APP/E2340/W/19/3237575

13. The current proposal, to which this appeal relates, now involves the re-siting of the building to provide a temporary agricultural worker's dwelling for a period of three years, during which time it is the appellant's intention to establish a new agricultural enterprise.

Policy context

14. Policy SDP2 of the Core Strategy sets out the Council's spatial development strategy for the Borough. The policy is clear that proposals to develop outside of a defined settlement boundary (i.e. within the open countryside) will only be permitted for those exceptions identified in the Framework, or policies in a document that is part of the development plan for Pendle. This approach is supplemented by Policies LIV1 and ENV4 which together direct housing to sites within a settlement, or outside but close to a settlement boundary, where it would minimise the need to travel by ensuring that development is located close to existing or proposed services.
15. The Framework, at paragraph 84, supports the sustainable growth and expansion of all types of business in rural areas, including the development and diversification of agricultural and other land-based rural businesses. At paragraph 80, the Framework seeks to avoid the development of isolated homes in the countryside unless special circumstances apply. This includes an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work.
16. The Planning Practice Guidance (PPG)³ sets out detailed considerations that may be relevant to take into account when applying the provisions of paragraph 80 of the Framework. Appropriate to this case are: evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural enterprise; whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and, in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

Whether there is an essential need

17. It is common ground between all parties that the current enterprise is not of a sufficient scale to necessitate a fulltime rural worker living at the site. This accords with the findings of the Council's independent assessment conducted by Agricultural Consultants ADAS (the ADAS Assessment)⁴. The appellant's case therefore rests on demonstrating an essential need for a rural worker to live at the site to support the proposed rural enterprise.
18. The appellant proposes to establish a new agricultural enterprise by increasing the size of his current herd and diversifying the agricultural business. Proposed stock numbers would be 50 suckler cows, 10 heifers, 35 store cattle, 50 calves and 2 stock bulls. A proposed dairy bull herd would consist of 60 cattle. The appellant also seeks to establish a herd of Boar goats for meat production comprising 80 nannies and 4 billy goats, with the expectation of 144 kids. In addition, a pig rearing enterprise is also proposed and would consist of 12 sows farrowed in batches of six providing litters every three months, with around 180 piglets reared each year.

³ Paragraph: 010 Reference ID: 67-010-20190722, Revision Date: 22 07 2019

⁴ Assessment by ADAS Agricultural and Planning Consultants, dated 13 December 2018

19. The accompanying Agricultural Appraisal⁵ calculates the labour requirement for the proposed enterprise to be between 1.73 and 2.62 fulltime equivalent (fte) agricultural workers depending on whether the John Nix⁶ or SAC⁷ farm management methodologies are used. The ADAS Assessment has reworked these calculations and arrives at a labour requirement of 1.5fte agricultural workers. I have no reason to doubt that the proposed agricultural enterprise, once established, would generate a labour requirement of at least 1.5fte workers. However, this on its own does not demonstrate an essential need for a rural worker to live at or in close proximity to their place of work to ensure the effective operation of the proposed agricultural enterprise.
20. The appellant states that there is a functional need, as a consequence of the scale and nature of the proposed agricultural enterprise, for a fulltime worker to be readily available at all times of day and night to care for the welfare of the livestock and to respond at short notice to emergencies. However, I heard that the goats would generally kid during the spring months from March through to May each year and that they generally require limited supervision during kidding. In fact, I was advised that goats are much less likely to experience difficulties in comparison to the lambing of sheep. I was also told that the cattle would predominantly calve during the springtime and during this period would need to be checked regularly at all hours of the day and late into the evening in order to avoid dead stock.
21. Farrowing would take place all year round in batches and I heard that on site supervision would be required to provide attention to young stock immediately post-birth which is likely to require out of hours attendance. It was stressed that high standards of animal welfare is a quality mark of the UK farming industry and something that the appellant seeks to uphold as part of the proposed enterprise.
22. There is no doubt that there would be instances when livestock would require assistance giving birth in order to avoid losses. However, kidding and calving activities would largely be seasonal and therefore any additional supervision and attendance would be confined to specific and limited times of the year.
23. The pigs would require all year-round supervision to support farrowing activities. Nevertheless, it would be very likely that the appellant would know well in advance when farrowing was likely to take place and given the relatively small numbers of sows involved, I am not persuaded that this would generate an essential need to live permanently on site.
24. Although I acknowledge that rural crime is a significant concern, an onsite presence is not the only means of securing stock and assets from potential theft. It was also suggested that the bull associated with the suckler cows would present a particular hazard that could give rise to the requirement for regular supervision. However, no evidence was presented to indicate why this would require a worker to be present on site at all times. Accordingly, these matters do not support the appellant's case for a worker to reside at the farmstead.
25. I am also mindful that existing residential accommodation exists at the farm in the form of the farmhouse, a self-contained residential annex and two static caravans, the latter being owned by the appellant. The appellant considers that the farmhouse is unavailable as it is owned and occupied by Mrs Halstead and that the annex would be too small and is in a poor state of repair. I was told that the

⁵ Planning Statement & Agricultural Appraisal by GHA, dated December 2017

⁶ The John Nix farm Management Pocketbook 2015

⁷ The SAC Farm Management Handbook 2013/14

caravans are not in a habitable state and I was advised that one does not benefit from planning permission.

26. Nonetheless, given that Mrs Halstead intends to maintain majority control over the land and owns most of the agricultural buildings on the farmstead, in these circumstances it cannot be said that the farmhouse has been severed from the holding. It is therefore available to serve the farming activities of the holding, despite Mrs Halstead's intentions to rent the land and buildings. Even if I were to conclude that the farmhouse was not available, the annex is currently vacant and includes a double bedroom, shower room with toilet and a combined living and kitchen area. It also has the benefit of its own external entrance and porch. Some repair and refurbishment would be required but, beyond this, I see no good reason why the annex could not provide suitable alternative accommodation for the appellant.
27. Furthermore, far from being in an uninhabitable state, I saw during my visit that, the two static caravans were furnished and showed signs of recent residential occupation. Indeed, the appellant confirmed at the hearing that one is currently used for short stays to support seasonal calving. Therefore, other than the appellant's preference not to live in a static caravan, I heard no credible reasons as to why one of the static caravans could not provide suitable temporary accommodation for a rural worker to live at the site.
28. In addition to that, the village of Trawden is only around 500 metres 'as the crow flies' from the appeal site and 1 mile by road. The opportunity to occupy/rent a dwelling nearby could provide the opportunity for the appellant to be on hand at short notice in the event that vulnerable animals required assistance. Whilst the appellant commented that houses in this area were generally more expensive and that off-site accommodation would not meet the needs of the enterprise, there is no convincing evidence before me to that effect, and I am not, therefore, persuaded that suitable accommodation is not available locally.
29. In addition to my findings above, in order to consider whether a temporary dwelling would be justified for a period of three years, I have also considered the longer term prospects of the proposed agricultural enterprise, including any evidence of a firm intention and ability to develop the enterprise as proposed.
30. At the hearing I was provided with a letter from the appellant's agent to the Council, dated 8 March 2019, and which included a revised financial forecast and gross margin data for each element of the proposed enterprise. This was provided in response to concerns raised in the initial ADAS Assessment over some of the financial details and a lack of information over the proposed goat rearing, including marketing. The revised forecast anticipates net profits of £34,192 per year based on proposed stock numbers.
31. However, the financial forecast relies on annual income from a Countryside Stewardship Scheme that is yet to be secured and does not include the cost of repairing and refurbishing the pig buildings which, I was told at the hearing, would be in the region of £6,000. There is also likely to be a significant cost involved in re-siting the existing temporary dwelling, as proposed, and completing it to a sufficient standard, yet this is not accounted for in the appellant's financial details.
32. At the hearing Mrs Halstead stated that she would be happy to rent the land and buildings to the appellant for a nominal rent but in the event that a commercial rent was required this would be in the region of £3,500 per annum. However, this has not been accounted for in the appellant's revised figures and I have been

provided with no written evidence to confirm a tenancy agreement. This lack of a secure contractual relationship casts significant doubt over the appellant's ability to develop the proposed enterprise.

33. The appellant confirmed that the investment required to set up the proposed enterprise would come from the sale of his current residential property in Nelson. He anticipates that this would raise up to £90,000 based on a recent valuation and that circa £56,000 would be invested in the proposed enterprise. However, I have no details of the appellant's existing property nor any evidence to confirm its current value.
34. Furthermore, with regard to the goat rearing element of the proposed enterprise, the financial projections have been based on the appellant's knowledge of a similar enterprise near Lancaster. From all I have heard and read, the appellant has little direct experience of commercially rearing goats but considers them to be akin to the rearing of sheep, and in many ways easier to handle and breed. I was told that the primary market for goat meat was the local population and the intention was to sell direct to butchers in the surrounding locality. However, there is no detailed business plan before me in this regard and as such I am unconvinced about the viability of the proposed enterprise.
35. Therefore, while acknowledging the various submissions and the temporary 3-year nature of the proposal, I am not persuaded that the proposed enterprise has been planned on a sound financial basis or that it would be financially viable in the long term.
36. In addition, there is little credible evidence of a firm intention and ability to develop the proposed enterprise. Whilst the proposal seeks a temporary permission in order to develop the enterprise, a comprehensive business plan for each year of operation including detailed profit and investment forecasts with supporting commentary has not been provided.
37. To conclude on this main issue, for all of the above reasons, an essential need for a dwelling to accommodate a rural worker has not been demonstrated. The proposal would therefore be contrary to Policies SDP2, LIV1 and ENV4 of the Core Strategy, the aims of which are set out above. In doing so, the proposal would also conflict with associated provisions of the Framework which seek to avoid isolated homes in the countryside.

Character and appearance

38. The appeal site is located within the Trawden Forest Conservation Area. This predominantly rural conservation area is characterised by historic farming practices that have shaped the rural landscape, including historic medieval vaccaries and copyhold farmsteads.
39. The character appraisal⁸ of the area identifies the site as being within the 'Moorland Fringe' countryside character area which consists of high level farmland on mainly gentle slopes except where the land descends into steep cloughs and river valleys. Stone walls, farms, barns and areas of tree planting dominate the higher land. While modern steel portal frame agricultural buildings exist in the area, the predominant traditional building materials are stone and slate.
40. Cowfield Farm broadly reflects the identified character and appearance of the conservation area with the farmstead laid out in a linear arrangement alongside a

⁸ An Assessment of the Special Historical and Architectural Interest, Character and Appearance of the Trawden Forest Conservation Area (January 2005)

gravel track that also serves as a public right of way through the farm. The farmstead consists of a range of modern and traditional buildings with the farmhouse being constructed from stone under a slate covered roof.

41. The temporary dwelling is a timber clad lodge style building, the design and appearance of which does not reflect that of local vernacular buildings, which has been sited on the southern side of the track, immediately to the east of the farmstead. The proposal would see the building re-sited to a field to the north of the track and closer to the existing farmhouse and annex. At this location longer range views of the building from the surrounding the landscape would be limited. However, when viewed from the public right of way, immediately adjacent to the site, the building's incongruous character and design would be readily apparent and in stark contrast to the prevailing character and appearance of the surrounding area. Furthermore, the proposed horizontal timber boarding for the building's elevations serves only to accentuate the building's discordant appearance.
42. I acknowledge that the construction of a traditional building in material such as stone, may be more costly than the cabin. However, this does not convince me that the proposal is acceptable. In order to safeguard the character and appearance of the surrounding area, it is important that temporary buildings are sited at locations which minimise their visual impact.
43. I acknowledge that landscaping is proposed to minimise the visual impact of the proposal. However, given the temporary nature of the proposal and the time in which it would take for the landscaping to mature, this would do little to temper the harm I have identified.
44. It was also put to me that the building would have a similar appearance to that of the adjacent agricultural buildings and therefore would not appear out of place. However, the surrounding agricultural buildings are predominantly of a modern steel portal frame type of construction with corrugated steel or fibre cladding, which reflects their agricultural function. Although the building would reflect the basic form of the adjacent agricultural buildings, its design is more typical of a holiday lodge and would therefore appear out of context in this agricultural landscape.
45. Under the terms of the Framework the harm to the conservation area would be less than substantial as the adverse effects would be localised. Nevertheless, it is incumbent upon me to give considerable importance and weight to such harm. The Framework advises that any harm must be weighed against the public benefits of the proposal. However, I have found that a justification for an isolated dwelling to support a rural enterprise has not been demonstrated. Therefore, there would be no benefit to the local rural economy that might outweigh the harm I have identified. No further public benefits have been advanced in favour of the appeal. Accordingly, the harm is not outweighed by public benefits.
46. To conclude on this main issue, I have found that the effect of the siting and appearance of the proposed temporary dwelling would be harmful to its surroundings such that it would fail to preserve or enhance the character or appearance of the Trawden Forest Conservation Area. Accordingly, it would not meet the weighty requirements of the Act as set out above. This harm would not be outweighed by public benefits. The proposal would therefore be contrary to Policies ENV1 and ENV2 of the Core Strategy which together seek to protect and enhance the natural and historic environment as well as the achievement of the highest possible standards of design that conserves heritage assets. The proposal

would also be contrary to the Framework with regard to achieving well-designed places and conserving and enhancing the natural and historic environments.

Other Matters

47. The appellant states that the agricultural justification for a temporary dwelling was accepted in the previous appeal at the site. However, the essential need for a dwelling was not a matter of dispute between the parties as part of that previous appeal and therefore the Inspector was not obligated to explore this matter further. In any case, I have considered the appeal on its own merits and reached my own conclusions.
48. In support of the appeal the appellant has referred me to a number of appeal decisions where dwellings have been permitted in the countryside to accommodate rural workers. However, these other cases relate to developments in other parts of the country with differing site-specific circumstances and with different policy considerations. Therefore, these other cases do not provide a direct comparison to the case before me and therefore do not add weight in favour of the appeal.
49. At the hearing I was advised that in the event that the appeal should fail this could compromise future farming activities at the site to the detriment of the local rural economy. However, I note that agricultural practices persist at the site and there was no evidence to suggest that farming activities could not continue as they currently do in the event that the appeal were to be dismissed.
50. I accept that the proposal would not give rise to any concerns relating to residential amenity or highway safety. Nonetheless, these are neutral factors that weigh neither in favour of, nor against, the appeal proposal.

Conclusion

51. An essential need for a rural worker to live at the site over the next 3 years has not been demonstrated. I have also found that opportunities exist to utilise existing accommodation on site and that opportunities to purchase or rent accommodation in the locality have not been fully explored. A firm intention and ability to develop a viable enterprise at the site has not been sufficiently demonstrated. Therefore, exceptional circumstances to justify an isolated new dwelling in the countryside, whether temporary, or otherwise, have not been demonstrated.
52. Furthermore, I have found the proposal to be harmful to its surroundings and therefore it would fail to preserve the character or appearance of the Trawden Forest Conservation Area. Public benefits would not outweigh this harm.
53. Consequently, the proposal is contrary to the policies of the development plan and there are no material considerations to indicate a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

J M Tweddle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Gary Hoerty BSc(Hons) MRICS FAAV

Garry Hoerty Associates (GHA),
Chartered Surveyors

Mr Robert Airey

The Appellant

Mrs Halstead

The Appellant's Sister

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alex Cameron BSc(Hons) MRTPI

Senior Planning Officer, Pendle Borough
Council

DOCUMENTS SUBMITTED AT THE HEARING:

Letter from GHA to Pendle Borough Council, dated 8 March 2019

Financial Forecast – Profit and Loss Account