The Planning Inspectorate

Appeal Decision

Hearing Held on 28 April 2021

Site visit made on 30 April 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal Ref: APP/D1265/W/20/3260062
Filleybrook Farm, Shute's Lane, Buckhorn Weston, Dorset SP8 5LQ

- 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 Mrs Celina Bhamra-Griffiths against the decision of Dorset Council.
- The application Ref 2/2020/0675/FUL, dated 18 May 2020, was refused by notice dated 17 August 2020.
- The development proposed is the erection of an agricultural worker's dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. In this case, the amendments to the Framework have not had a significant bearing on the most relevant issues in this appeal. I am therefore satisfied that there is no requirement for me to seek further submissions on the revised Framework, and that no party's interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering is that of the July 2021 version.

Main Issues

3. The main issues are:

   - Whether, having regard to local and national planning policies which seek to avoid isolated new homes in the countryside, there is a justified essential need for a rural worker to live permanently at or near their place of work; and

   - The effect of the proposed development on the character and appearance of the area.

Reasons

The appeal site and the proposed development

4. Filleybrook Farm is a holding of around 7.39 hectares, jointly owned since 2007 by the appellant and her husband, Mr John Griffiths. The farm lies on the south side of Shute's Lane, from which it is accessed, in the valley of the Filley Brook

about a mile north east of the village of Buckhorn Weston. It is primarily run as a farm producing goat cheese, although it also produces chicken and quail eggs, as well as young trees, and production of goat milk soap has also been trialled. Labour needs, amounting in total to around 1.7 full-time equivalents ("FTE"), are met by the appellant and her husband. I heard at the Hearing that on a holding of this sort it would not be unusual for either of them to be carrying out a variety of tasks on any given day. Broadly speaking however, Mr Griffiths works full time, milking the goats as well as carrying out other duties which might best be categorised as "infrastructure and maintenance", while Mrs Bhamra-Griffiths makes up the balance, mainly dealing with cheese production and sales.

5. At present, the operational buildings on the holding comprise a small square timber framed building, a former railway carriage which provides accommodation for goats, and various other sheds and demountable workspace or storage units. These are all located approximately in the centre of the site on the west side of the valley and connected to Shute's Lane by an access track. I saw on my site visit that there are also some small sheds for poultry on the east side of the Filley Brook.

6. Just west of the existing farm buildings, three new agricultural buildings are being built. These will become a milking parlour with tank room and cheese room[1], a shed for goat accommodation[2], and a machinery barn[3] are being built, although I saw on my site visit that all remain some way from completion. Of the three, the goat shed was at the most advanced stage of construction, with around five courses of blockwork built above foundation level, while the milking parlour had not progressed beyond footings.

7. To the north west of the three "under construction" buildings, accessed by a short spur from the main gravel track, is a mobile home, occupied by the appellant and her husband. This was granted temporary planning consent for a three year period in October 2016[4]. The proposed development is the erection of a permanent agricultural worker's dwelling, to be sited just to the west of the existing mobile home.

Relevant local and national planning policy

8. The appeal site is not in one of the towns or larger villages which form the focus for growth in North Dorset, nor is it within any defined settlement boundary. Both main parties therefore agreed at the Hearing that for the purposes of determining this appeal the site lies in the countryside. Policies 20 and 33 of the 2016 North Dorset Local Plan Part 1 ("the NDLP") set out the Council's strategy for development in the countryside, including its approach to occupational dwellings.

9. Policy 20 states that development in the countryside outside defined settlement boundaries will only be permitted if it is either of a type appropriate in the countryside, or it can be demonstrated that there is an "overriding need" for it to be located in the countryside. Occupational dwellings are one of the types of development considered appropriate in the countryside, subject to compliance

[1] Permitted by LPA Ref: 2/2016/1441/FUL, dated 9 December 2016
[2] Permitted by LPA Ref: 2/2013/1279/PLNG, dated 10 February 2014
[3] I heard at the Hearing that this had been approved in 2008, although no details of the application were provided.
[4] LPA Ref: 2/2016/0865/FUL

with the requirements of Policy 33. For a permanent occupational dwelling in the countryside to be permitted, Policy 33 sets six criteria, which are that:

a) the need relates to a full-time worker and does not relate to a part-time requirement; and

b) there is an essential existing functional need for a worker to live at, or in the immediate vicinity of, their place of work; and

c) the economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by satisfying the "financial test" applied by the Council; and

d) the functional need could not be fulfilled by any other means; and

e) it is of the minimum size and an appropriate design commensurate with the established functional requirement and reflective of the enterprise's financial projections; and

f) it is sited so as to meet the identified functional need and is well related to existing farm, forestry or rural business buildings, or other dwellings.

10. Paragraph 80 of the Framework[5] states that planning decisions should avoid the development of isolated homes in the countryside other than in certain exceptional circumstances, one of which is where there is 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 in the countryside.

11. It is common ground between the main parties that, in the Framework's terms, the proposal would lead to the development of an isolated home in the countryside. Although the appellant's appeal statement questioned why, in assessing "justified essential need", Policy 33 applied a "financial test" which was removed from national planning policy in 2012[6], no substantive evidence was put to me to suggest that there was a conflict between the NDLP and the Framework. I note also that the NDLP was examined and adopted some time after the Framework was first published and would have been considered in the light of its requirements. At the Hearing, the parties therefore agreed that Policies 20 and 33 of the NDLP are, along with Paragraph 80 of the Framework, the most relevant local and national policies for determining whether or not there is a "justified essential need" for the proposed dwelling.

12. In terms of assessing the "justified essential need", the Council acknowledges that the proposal complies with some of the criteria of Policy 33. It considered that the 94 female goats (plus offspring and billy goats) on the farm at the time the planning application was being determined was "sufficiently close" to a dairy herd of 100 goats, which the Agricultural Budgeting Costing Book ("the ABC") states would require one full-time worker, to comply with the policy. Indeed, I heard at the Hearing that there were now 104 milking does within a total herd of 132. The Council is also satisfied that there is a need for a worker to be present at short notice outside normal working hours to provide care for the goats, in particular at kidding time and to be able to identify when female goats come into season for breeding. It also acknowledged that, other than the

[5] At the time the Hearing was held, this was Paragraph 79 in the 2019 version of the Framework. Although the numbering has changed in the latest version of the Framework the relevant parts of the paragraph are unaltered.
[6] When the first version of the Framework was published and replaced [national] Planning Policy Statement 7

mobile home currently on the site, there are no other dwellings or farm buildings suitable for conversion to provide accommodation. There was no disagreement between the main parties that the proposal therefore complies with criteria (a), (b) and (d) of Policy 33, and none of the evidence which I saw or heard leads me to a different view on these points.

13. The principal disputes between the main parties are in respect of criterion (c), as the Council does not consider that the continuing economic viability of the enterprise has been demonstrated, and criterion (e), where the Council considers that the proposed dwelling would be larger than necessary for a farm manager's dwelling in the area. I consider these matters in turn below.

14. The Council also expressed concern about the siting of the proposed dwelling and compliance with criterion (f), although in discussions at the Hearing it became apparent to me that this was primarily wrapped up in matters related to the lack of permanent farm buildings and the ongoing viability of the enterprise. I shall therefore address this point in summarising my findings on the first main issue, while more general matters of character and appearance are addressed as a separate main issue.

Ongoing economic viability of the enterprise

15. The business plan supporting the application for the temporary mobile home on the appeal site in 2016 indicated that the farm would be producing a net profit by the third year of around £26,000. As part of the appeal submissions, the appellant provided financial ledgers and tax returns for the years to April 2017, 2018 and 2019. These showed a surplus of £4,477.11 in 2016-17, £14,105.52 in 2017-18, and £25,634.36 in 2018-19. The last of these figures is close to the net profit of £26,000 anticipated in 2016, and the appellant therefore considers that the profitability, and thus the viability and sustainability, of the enterprise has been demonstrated. For its part, the Council considered that the submitted ledgers are missing key information in several areas, notably profit and loss accounts, breakdown of fixed costs, open and closing stock valuations, and a capital balance sheet. The Council also commented that there were considerable gaps in the production costs data, and no details of capital funding either for completion of the three agricultural buildings or for construction of the proposed dwelling.

16. The submitted ledgers show a production cost in 2018-19 of £61.16 per goat, compared with £314.15 per goat anticipated by the 2016 business plan, and the ABC variable cost (including flock depreciation, but excluding fixed costs) of £328 per goat. Most of the cost items shown in the ledgers are transport fuel and car boot sale pitches. The 2018-19 ledger included only five other items which accounted for a little under £1,218 in total outgoings of just over £3,058; these were ear tags, vaccinations, hay (the largest expense by some way, at £1,100), buckets and salt licks. No information is available at all in respect of costs, or allowances, for machinery purchases, repairs to machinery, vehicles or buildings, utilities, insurance and suchlike.

17. The appellant told me at the Hearing that she and her husband are at present running the farm "on sufficiency lines" and were taking every opportunity to reduce costs. For example, the largest single cost shown in the 2016 business plan was feed at just under £142 per goat per year. The appellant stated that this cost had been cut dramatically by hydroponically growing barley sprouts for feed, using barley which Mr Griffiths had received as payment for carrying

out work for others. I heard that other items had been bought cheaply in bulk if the opportunity arose, such as when around 10 years' worth of supplies for cheesemaking were purchased. Costs are also reduced by repairs to equipment and machinery generally being carried out by Mr Griffiths.

18. In terms of capital costs, the appellant explained at the Hearing that most of the building materials for the three agricultural sheds had already been purchased, and that Mr Griffiths was carrying out the building work himself. The building costs for the proposed new dwelling would be met out of savings; again materials had already been purchased, and Mr Griffiths would again be carrying out the building work. I heard that the farm does not use a great deal of machinery or equipment, although a replacement for an elderly tractor had already been acquired in anticipation of the day it would be needed.

19. I acknowledge that the appellant and her husband are trying to operate prudently while the farm becomes established. For example, the use of a hydroponic system to grow feed rather than buying it in is a good idea which has obviously resulted in a significant cost saving for the business, although the exchange of labour for barley still represents a "cost" which is not accounted for in the information submitted to me. However, even if the cost of feed anticipated in 2016 is ignored in full, the variable cost per goat in 2018-19 was still coming in at around £111 per animal less than originally expected. The very small number of cost items shown in the 2018-19 ledger seems, on balance, to be unlikely to reflect the real needs of a young and growing enterprise, even allowing for the determination of the appellant and her husband to keep operating costs to a minimum and carry out as much work as possible themselves.

20. I accept that it is not unusual for investment to be required to get a business off the ground, but the investments which the appellant and her husband have made over the last few years in terms of various purchases such as materials and equipment, and propose to continue making in the future from savings, are also not reflected in the financial information before me. The figures provided in the ledgers show the day-to-day returns which the farm is making on trading. However, this is only part of the full picture.

21. The size of the goat herd has increased since 2016. I was told also of the herd's growing reputation as a result of prizes won, and a subsequent increase in demand for, and value of, goats from the herd. However, I have not been provided with stock valuation figures, which would more accurately demonstrate progress in developing the business. Similarly, the lack of a capital balance sheet means that the value of the business, and the associated confidence that it can provide a reasonable return on capital, cannot accurately be assessed, nor can I be sure of the extent to which it is dependent on financial support from the appellant and her husband. Based on all the evidence which was put to me, I consider that the financial information provided does not include all of the costs which it would be realistic to expect, nor does it demonstrate that it is yet an independently-sustainable business.

22. The submitted ledgers and tax returns also indicate that, on the most recent information available, the farm is operating at a level some way short of permitting the appellant and her husband to earn at least the National Living Wage[7]. While I accept that the Mrs Bhamra-Griffiths and Mr Griffiths can

[7] The 2020 figure for 1.7 FTE amounted to a labour charge of £32,613, for 2021 this would be £33,323.

choose to live on a smaller income, and in the "sufficiency" stage of developing the farm they are doing just that, the business needs to be able to provide its workers with an acceptable income over the longer term.

23. Finally, the farm continues to operate without permanent agricultural buildings. This is for reasons to which I shall return in a moment and which are to a considerable degree understandable. However, at present the business is dependent on the temporary or ad hoc structures and units on which it has relied since 2016 and before.

Size of the proposed dwelling

24. The proposed dwelling would be a detached two-storey, three-bedroom house, along with a detached double garage. None of these features would make it unacceptable in principle for a family dwelling incorporating the farm office. However, the Council expressed concern that the dwelling would be larger than required to meet the needs of the business, and consequently would be less affordable for the business to build and sustain as a rural worker's dwelling.

25. Policy 33 of the NDLP does not specify the minimum size necessary to meet the functional requirement of a farm, and I was not made aware of any guidance on the matter. It is however worth emphasising that the policy requires agricultural workers' dwellings to be *no larger than*, rather than *at least*, the minimum size necessary. The Council told me at the Hearing that comparable market housing in the area typically had an internal floor area of around $120m^2$, and that with an allowance of a further $20m^2$ or so for a farm office a total internal floor area of around $140m^2$ was usually considered acceptable.

26. The drawings submitted with the planning application showed the proposed dwelling to have an external footprint of 13.5m by 7.9m and thus, by the Council's calculation, a Gross External Area across two floors of $213m^2$. The appellant questioned why the Council had only calculated the external area, but the external dimensions were the only ones provided on the drawings.

27. The appellant meanwhile calculated that the dwelling would have a Gross Internal Area of $169m^2$, made up of $141m^2$ of living space with a combined boot room and office of $28m^2$. The appellant also referred to a limit of $169m^2$ for similar dwellings in Somerset, but although the appeal site is reasonably close to neighbouring South Somerset that council's development plan and guidance are not relevant in determining this appeal.

28. While the internal area is of course going to be smaller than the external area, it seems unlikely that the walls of a modern dwelling of the size proposed could account for the difference of around $44m^2$ between the two parties' figures. Although the discrepancy was discussed at the Hearing, the submitted drawings were very basic and did not include any internal dimensions at all, so were little help in resolving the disagreement. However it seems to me that the Council's calculation of the external area is accurate, and on balance therefore I consider that the appellant's calculation understates the Gross Internal Area of the dwelling.

29. However, even taking the smaller figure of $169m^2$ provided by Mrs Bhamra-Griffiths, the proposed dwelling would be rather larger than the $140m^2$ considered acceptable by the Council. The Council drew my attention to appeal

decisions in respect of Haywood Park Farm[8] and Oak Farm[9] where the 140m^2 figure had been considered and found appropriate by other Inspectors. In the Haywood Park Farm decision, the Inspector explained that not only would 140m^2 provide sufficient space to accommodate a three- or four-bedroom dwelling plus office, such a limit was necessary to ensure that a dwelling only permitted in the open countryside as essential on-site accommodation would remain financially accessible to the agricultural community in future. No substantive evidence was put before me which would justify taking a different approach in this case.

30. The appellant explained that, before moving to the mobile home on Filleybrook Farm, her previous house measured around 169m^2 and that she had therefore sought to build a similar sized property this time. However, to my mind this is an expression of preference rather than operational need. I also heard that the appellant considered the size of the proposed dwelling to be proportionate to the farm's income, although given the uncertainty at this stage about the ongoing economic viability of the enterprise which I have found this was also not a persuasive argument.

Findings in respect of justified essential need

31. On the basis of all the evidence put to me, I cannot be certain that the business is likely to endure as an ongoing economically-viable enterprise in the longer term. I also find that the proposed dwelling is not of the minimum size commensurate with the established functional requirement and reflective of the enterprise's financial projections. Criteria (c) and (e) of Policy 33 are not therefore complied with. The siting of the proposed dwelling would be such that the identified functional need, which is primarily based on accessibility to the goats' accommodation, would be met. However at present the dwelling would be separated from the existing buildings and sheds by the space which is intended to be occupied by the milking parlour, which is of course still being built. The site as a whole would therefore be somewhat disjointed, and the dwelling would not be well-related to the existing farm buildings. I therefore find that there would also be conflict, albeit to a limited degree, with criterion (f).

32. It was explained to me at the Hearing that Mr Griffiths had been seriously ill for much of the two previous years. As a consequence, until recently he had been unable to carry out work either tending the livestock or, equally pertinently, completing building work on the new agricultural sheds. I also heard from Mrs Bhamra-Griffiths that the onset of the Covid-19 pandemic and the consequent cessation of the car boot sales where most of the farm's produce was sold meant that new markets had had to be found to keep the business going. Both of these matters have clearly affected the growth and development of the farm. It seems likely that the completion of the permanent sheds in particular would both demonstrate, and significantly assist in boosting, the ongoing viability of the enterprise. I am therefore very sympathetic to the problems which the appellant and her husband have faced since 2018, although in view of my findings set out above I do not consider that they amount to a justification for a permanent dwelling as things stand.

[8] Ref: APP/N1215/A/13/2200385
[9] Ref: APP/N1215/A/14/2225549

33. At the Hearing the Council stated that, bearing in mind the progress which Mrs Bhamra-Griffiths and her husband have made in establishing the business and the problems they have faced since 2018, it would be willing to support a further period of temporary accommodation on the site. This would require a new planning application, which is of course not a matter for me to comment on in determining this appeal. While the Council's offer to the appellant is therefore noted, it does not change my overall conclusion.

34. I conclude that it has not been demonstrated that there is an essential need for a permanent dwelling on the holding. Accordingly, the proposed development would conflict with Policies 20 and 33 of the NDLP. Together these policies seek to protect the countryside by preventing the development of housing except in certain limited circumstances, including when an occupational dwelling is justified. The proposal would also conflict with the requirements of Paragraph 80 of the Framework, which seeks to prevent the development of isolated dwellings in the countryside.

Character and Appearance

35. As I have already described, the appeal site is in a field in open countryside. The proposed dwelling would be visually separated from the nearby temporary farm buildings and sheds. The drawings submitted with the planning application were simple to the point of crudeness, and consequently lacked much in the way of detail. It did not appear to me that a great deal of thought had been given to the design of the house, or how it could make a positive contribution to the character of the local area.

36. I heard from the appellant at the Hearing that there is no single prevailing style of building in the area, and that nearby modern houses in particular are generally very different from one another. Based on what I saw on my site visit, I do not disagree. However, that does not justify the lack of care which appears to have been given to ensuring that the proposed dwelling would be well-designed and attractive. The variety of form and design on display elsewhere in the surrounding area does not add weight in support of this proposal.

37. While the dwelling would be partly shielded in views from Shute's Lane by hedgerows and the slope of the land, it would be a very visible feature for anyone using the public footpath which passes through the site from north to south. Even if the detailed design of the house could be addressed by conditions, the introduction of a dwelling without the context of adjacent farm buildings would be intrusive and detrimental to the open character and appearance of the surrounding countryside.

38. I conclude that the proposed development would be harmful to the character and appearance of the area. It would therefore conflict with Policies 20, 24 and 33 of the NDLP, which seek to protect the countryside, ensure that occupational workers' dwellings are of an appropriate size and siting to meet their functional need, and that all development is designed to improve the character and quality of the area in which it is located.

Other matters

39. Interested parties expressed concerns about the possible flood risk on the appeal site. The Council's evidence indicated that the site lies within Flood Zone

1, where there is a low risk of fluvial flooding, although the Environment Agency surface water flood risk maps highlighted some risk. At the Hearing, I also heard evidence about some episodes of flooding in the area, although this was largely anecdotal and there was nothing substantive to suggest that the proposed location of the dwelling had ever been seriously affected. All things considered, flood resilience is a matter which, had the proposal been otherwise acceptable, could have been addressed by an appropriate condition.

40. Other matters raised by interested parties in response to the original planning application consultation and the appeal notification have, to the extent that they are material, been addressed in my consideration of the main issues above.

Conclusion

41. The essential need for a permanent dwelling on the site has not been demonstrated. The proposed dwelling would also be harmful to the character and appearance of the countryside. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.

42. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector

Appearances

FOR THE LOCAL PLANNING AUTHORITY

Steven Banks	Planning Officer, Dorset Council
Roger Sewill	Reading Agricultural Consultants

FOR THE APPELLANT

Celina Bhamra-Griffiths	
John Griffiths	Appellant's husband

INTERESTED PARTIES

Linda Munster	Parish Councillor, Buckhorn Weston and Kington Magna Parish Council
Val Pothecary	Councillor for Gillingham Ward, Dorset Council