



Appeal Decision

Hearing Held on 12 October 2021

Site Visit made on 12 October 2021

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/Q3305/W/21/3270276

Springwater Farm, Anchor Road, Coleford, Frome, BA3 5GX

- 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 Aaron Foot against the decision of Mendip District Council.
 - The application Ref 2020/1033/FUL, dated 22 May 2020, was refused by notice dated 18 January 2021.
 - The development proposed is erection of a single detached residential dwelling, garage and associated development.
-

Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mr Aaron Foot against the Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is 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.

Reasons

Background

4. The appeal site is a farm situated close to the village of Highbury (approximately 500m) and accessed via a track from Anchor Road, a fairly wide residential road lined on each side by a variety of dwellings. The farm lies within the open countryside and is comprised of approximately 26 acres of agricultural pastureland supported by three farm buildings and a temporary agricultural workers dwelling granted planning permission in 2016¹. The temporary dwelling is occupied by the appellant and his partner at present.
5. Planning permission for a smaller agricultural building was also granted as part of the 2016 scheme. However, this building has not been constructed as the appellant holds it would not meet current welfare standards. Furthermore, permission was granted in August 2019² for "erection of a steel portal frame livestock building for beef finishing, installation of underground water storage

¹ 2016/2436/FUL

² 2019/1504/FUL

tank and associated building operations” and followed in December 2019³ by a grant of planning permission for “proposed 2 bay extension to existing livestock buildings and erection of standalone building for storage of feed and concentrates”. At the time of my site visit some, limited and apparently fairly recent, groundworks had begun on the additional livestock building (and its subsequent extension). However, there was nothing present on site to indicate that completion of the approved works was imminent and at the hearing it was advised that delays had been caused by the supply of materials.

6. The agricultural enterprise currently comprises approximately 103 cattle; including a suckler herd of 15 and 30 calves. A number of sheep and horses were also present on site at the time of my visit. The business is supplemented by contract work undertaken by the appellant at other sites.
7. The proposal is for the construction of a two-storey, three-bedroom agricultural workers dwelling with associated garaging. Though a detailed block plan has not been submitted, it was agreed at the site visit that the dwelling would be situated on land at the top of the access track in fairly close proximity to the existing agricultural buildings and as marked on the plan labelled “Additional Information”. Were I minded to allow the appeal full details could be secured through the use of a suitably worded planning condition.

Policy context

8. Policy DP13 of the Mendip District Local Plan 2006 – 2029 Part 1: Strategy and Policies, adopted on 15th December 2014 (LP) sets out the Council’s strategy in relation to accommodation for rural workers. The policy is clear that proposals for accommodation outside of defined development limits which are necessary to support agriculture, forestry or other rural enterprises will be supported where a number of criteria are met. These include the need to demonstrate that; the dwelling and its proposed location are essential to support or sustain the functioning need of the enterprise, there is a need for permanent occupation which relates to a full-time worker or one who is primarily employed by the business, all alternative accommodation options have been explored and no satisfactory alternative means of providing accommodation has been identified.
9. Additionally, in order to justify a permanent dwelling, the Council state that the enterprise must have been established on the unit for at least three years and business accounts for the preceding three years indicate that at least one of those years has been profitable and that the enterprise is financially sound and has clear prospects of remaining so.
10. Paragraph 84 of the National Planning Policy Framework (The Framework) sets out the need to support 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 sets out that isolated new dwellings in the countryside should be avoided unless certain circumstances apply. The exceptions to this include instances where there may be 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.

³ 2019/2260/FUL

Whether there is an essential need

11. The 2016 permission for a temporary dwelling was granted on the basis of a business plan which showed significant expansion of the enterprise over time. There is no dispute between the parties that the expectations set out at that time have not been met and growth has been slower than anticipated. As such, I heard that the Council hold that the position has changed and, given the current scale of the enterprise, they no longer consider the need for a dwelling on site is justified. The appellant, however, states that plans for expanding the business remain and even though growth has been slower than planned the need for a dwelling on site remains.
12. The appellant has provided labour calculations based on the John Nix Pocketbook for Farm Management (49th edition). These calculations set out that at the time the application was made there was a need for 1 Full Time Equivalent (FTE) agricultural workers labour, this appears to have risen to 1.6 FTE at the time of the appeal. The appellant further suggests that following the proposed expansion of the business the need would rise to 3.4 FTE.
13. I have no reason to doubt that the labour calculations are correct and the business requires a minimum of 1 FTE. However, this alone 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 agricultural enterprise.
14. At the hearing it was clear that the appellant holds that the need for a worker to live on site is as a cumulative result of the work involved in the day to day running of the farm. It was accepted by the parties that the most intensive need stems around calving and the close supervision which is required before, during and after. The current suckler herd stands at around 15. Each member of the herd would be expected to produce one calf each year and calving would occur throughout the year.
15. There is no doubt that there would be instances when livestock would require assistance before, after or during calving. However, in my view, it would be highly likely that the appellant would know in advance when calving was likely to take place and I heard that alternative arrangements could indeed be possible during these times of more intense need. Consequently, given the relatively small numbers within the suckler herd I am not persuaded that this would generate an essential need to live permanently on site. I note the appellant's intention to expand the number within the suckler herd, however, I have been provided with little compelling evidence to indicate precisely how or when this expansion would occur. Even if the herd were to increase the anticipated future numbers remain fairly low.
16. I acknowledge the appellant's view that the need for an on-site presence is as a result of the day to day running of the enterprise cumulatively as opposed to the requirements associated with the calving alone. The care required as part of the more long-term calf rearing process is said to include regular supervision of the livestock alongside three feeds a day; typically at 7.00am, 14.00pm and 22.00pm. I also note the additional monitoring activities such as temperature checks which are required, particularly, as was the case at the time of my site visit, when vaccinations are occurring for example. Furthermore, the other livestock on site require monitoring, clean water, food and bedding. However, on the basis of the evidence before me I am not satisfied that the scale and

intensity of the works outlined are such that they would require the presence of an agricultural worker on-site at all times.

17. I recognise that the possibility of livestock escaping, other unforeseen events and rural crime present a significant concern. However, in my opinion an on-site presence is not the only means of securing stock and assets and increased security could potentially be achieved through a further detailed exploration of alternative solutions.
18. In addition to my reflections set out above, I have also considered the financial information provided by the appellant. I note that it is common ground between the parties that the requirements set out within Policy DP13 2. ii) which states that, in order to justify a permanent dwelling, the business accounts for the preceding three years indicate that at least one of those years has been profitable and that the enterprise is currently financially sound and has clear prospects of remaining so, have been met. I concur that the enterprise when considered as a whole does indeed meet these policy requirements.
19. However, though the accounts provided show investment into the growth of the livestock business they also indicate that a significant proportion of the income comes from contract work undertaken on other sites. Were I to exclude this income from that generated by the farming activity on site a significant loss would result. Whilst I accept that this income is a part of the wider agricultural business, this work requires the appellant to work off-site and thus does not lead to any need for a permanent worker to reside on-site.
20. I note that the contract work has not been included in the labour calculations set out above. However, in my view, the accounts I have been provided with indicate that, at present, the farming enterprise on-site is not profitable in itself and as such does not justify granting planning permission for a permanent dwelling.
21. I accept the appellant's intention to expand the business and also note the concern that the inability to live on site permanently may have implications on the welfare of the livestock as well as potentially increasing the outgoings associated with the business. However, these considerations are not sufficient to dissuade me from the findings I have set out above.
22. Notwithstanding the above, even if I were to concur with the appellant's view on the need for a worker to be at or in close proximity to the site at all times, Policy DP13 1. a) iii) of the LP also requires all alternative accommodation options to have been explored.
23. I heard the appellant's statement that a view was reached that off-site accommodation would not meet the needs of the enterprise and, as such, a full assessment of the availability of nearby alternative accommodation was not carried out. However, the land that forms part of the agricultural enterprise abuts a substantial well established residential area which would be readily accessible from the farm. Though I note that any such alternative accommodation would not be within sight or sound of the farm, I have not been provided with satisfactory evidence to indicate that the use of remote monitoring in some form would not provide an acceptable alternative solution.

24. On the basis of the evidence before me, I am not persuaded that a permanent on-site presence is essential other than during occasional, most likely foreseen, circumstances such as calving. Neither am I convinced that, during the normal course of the operation of the enterprise, the presence of a dwelling on site would be markedly different to the situation should the appellant be residing in other nearby accommodation. Therefore, in my view, the opportunity to occupy a dwelling nearby could provide the ability for the appellant to be close by at short notice should urgent attendance at the farm be necessary for any reason. Thus, in the absence of an assessment of available alternatives, I am not convinced that nearby accommodation would not be a suitable or available alternative. For all of the reasons set out above an essential need for a dwelling to accommodate a rural worker has not been demonstrated in this instance. The proposal would, therefore, conflict with Policy DP13 of the LP which sets out the Council's strategy regarding accommodation for rural workers. Furthermore, the proposal would also be contrary to the associated provisions set out within the Framework which seek to avoid isolated homes in the countryside.

Other Matters

25. Whilst the appellant makes reference to the existence of a number of other examples which could be considered similar, I am not aware of the specific details of these other cases and each case must be determined on its individual merits and the circumstances in each case are likely to be different. In any event, the existence of other examples is not in itself a compelling reason to justify the grant of planning permission.
26. I have noted a number of other issues raised. However, this proposal is going to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issues, in fact, many relate to the operation of the enterprise itself and are not related to the appeal before me. Therefore, it is not necessary for these to be explored further as part of this appeal.
27. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached above.

Conclusion

28. The proposal would not accord with the development plan when it is considered as a whole and I have not identified any material considerations which indicate that the appeal should be allowed. For the reasons given above I conclude that the appeal should be dismissed.

L J O'Brien

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Guy Wilson BSc (Hons) MRICS FAAV	Stags Professional Services
Hannah Lukins	Stags Professional Services
Mr Aaron Foot	The Appellant
Kelly Prewitt	The Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY:

Ms Nikki White	Principal Planning Officer, Mendip District Council
Lorna Elstob	Mendip District Council
Zoe Phillips	Technical Case Officer, Mendip District Council
Kira Hollis	Technical Case Officer, Mendip District Council
L Bradshaw	Mendip District Council (Observing)