
Appeal Decision

Hearing held on 24 November 2021

Site Visit made on 24 November 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2021

Appeal Ref: APP/X1545/W/21/3271277

Barn 2 Woodstock Farm, St Stephens Road, Maldon, CM3 6NP

- 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 Woodstock Animal Enterprises Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/01096, dated 16 November 2020, was refused by notice dated 15 January 2021.
 - The development proposed is the siting of a mobile home as an agricultural worker's dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home as an agricultural worker's dwelling at Barn 2 Woodstock Farm, Maldon, CM3 6NP in accordance with the terms of the application, Ref FUL/MAL/20/01096, dated 16 November 2020, subject to the attached schedule of conditions.

Preliminary Matters

2. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.
3. The proposal is retrospective in nature with it being confirmed at the hearing that the mobile home has been at the site since September 2020. The parties confirmed that permission is being sought for a temporary period of 3 years.
4. As part of the appeal the appellant has submitted revised plans which indicate an area of amenity space, parking spaces and a revised design of the mobile home. It was confirmed at the Hearing that the plans listed in the statement of common ground were those submitted as part of the appeal, despite the use of different reference numbers.
5. The Council has no objection to the substitution of the plans and I am satisfied that the changes would be modest in extent and generally seek to clarify how areas of the site would be used. As such, my accepting the alterations would not prejudice any party.
6. A fence and entrance gates have been erected on the site, but they do not form part of the proposals before me and therefore I have not considered them.

Main Issues

7. The main issues in this appeal are:

- whether there is an essential need for a dwelling to accommodate a rural worker;
- whether the proposed development would provide acceptable living conditions for future occupiers, with regard to amenity space and noise and disturbance;
- the effect of the development on the character and appearance of the area; and
- the effect of the proposal on the Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Crouch and Roach Estuaries SPA and Ramsar Site.

Reasons

Policy Context

8. Policies S1 and S8 of the Maldon District Approved Local Plan 2014-2019 (LP) set out the Council's spatial strategy for directing housing to existing settlements and maintaining the rural character of the Countryside.
9. Policy H7 of the LP allows for exceptions to this spatial strategy for agricultural and essential workers accommodation and sets out a number of criteria which need to be met in order for permission to be granted. These include, whether there is: a functional need for a worker in that location; if the business is viable with secure future prospects; no suitable alternative dwellings available and that the development is not intrusive.
10. Paragraph 80 of the National Planning Policy Framework (the Framework) states planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
11. The Court of Appeal have held that the word 'isolated' in the phrase 'isolated homes in the Countryside' simply connotes a dwelling that is physically separate or remote from a settlement. In this case, having regard to the proximity of the site to the nearest settlement and its lack of grouping with other dwellings I conclude that the site is isolated in the context of paragraph 80 of the Framework.
12. Whilst the LP policy sets out a number of additional criteria beyond that required by the Framework, I am satisfied that these criteria form an appropriate basis for establishing whether or not there is an essential need for a rural worker to live permanently on the site. It is therefore consistent with the aims of the Framework and I afford the policy full weight.

Essential Need

13. The appellant has farmed on the site since 2019, which comprises a mixture of owned and rented fields spread across four separate parcels of land. At the Hearing the appellants confirmed that the farm is their only source of employment.

14. The enterprise currently consists of 16 cattle, 158 sheep, 67 goats and 6 reindeer. These numbers increase during periods of calving, lambing and kidding and during the Hearing the appellant outlined how many of the current livestock on site are pregnant and that birthing in 2022 would be likely to occur between January-May for the cattle, February-September for the goats and February-May for the sheep.
15. The majority of the livestock would be out in the fields between the months of March/April until November/December. However, the goat herd spend longer periods of time inside due to the particular nature of that species, which is less hardy. The appellant confirmed that at times small numbers of livestock may be grazed on land in Hanningfield; which was 15-20mins from the appeal site or in Cold Norton which was only a few minutes from the site. However, this would not be young livestock or animals which were due to give birth and therefore would not require the same level of supervision as those located on the appeal site.
16. The appellants contend that a presence is required on the farm to deal with any issues of stock escaping and potentially getting into difficulty and to be in a position to identify any signs of illness or distress quickly. In particular, they need to remain on hand for calving, kidding and lambing which is unpredictable in terms of timing, and also for the general feeding and checking of the stock. This can include bottle feeding young animals, supervising lambs under lamps, managing sick and quarantining animals and some requiring ongoing care.
17. The evidence provided in the farm diary which was during a period when the appellants were living off site, approximately 7 miles away, demonstrates the level of monitoring and interventions required during livestock birthing. Whilst this is only a snapshot it demonstrates the requirements for persons to be on site for extended periods of time in order to ensure that welfare standards are met and to ensure livestock in difficulty are tended to quickly. The appellants explained at the hearing that it was necessary for them to live on site as it was not possible to provide the ongoing level of supervision required without one or both of them being present at site for the majority of the time, which was evidenced in the examples provided in the farm diary.
18. I have had regard to whether the need for a presence on site could be met by the employment of additional staff, in order to provide cover throughout the day during times of birthing. However, having regard to the infancy of the enterprise and that the existing business already sustains two full time workers, it would be some time before the business would be able to support a fully experienced stock person. Currently, additional labour needs are met through agricultural students who would not have the same level of expertise in dealing with difficult births or livestock in need of assistance. Therefore, I am not persuaded that the functional need could, at this time, be met by additional employees.
19. The evidence provided by the design and access statement indicated that the birthing of the animals is a seasonal activity, which could be met by occasional overnight stays, rather than a need for a permanent presence on site. However, the oral evidence provided by the appellant at the Hearing, demonstrated that birthing of livestock, taking into account those animals which are pregnant, would occur throughout the year.

20. Even outside of those times, during the winter months, there would still be instances where young animals would need regular support and intervention having been born in late Autumn. The appellant explained that there was a need for birthing to take place throughout the majority of the year in order to provide an ongoing source of meat, which is sold through their on-site shop and also to sell livestock into the market for breeding. I am therefore satisfied that the evidence demonstrates that it is the appellant's intention for livestock to be birthed for an extended period over the year.
21. An on-site, or near-site, presence could not prevent all unforeseen circumstances nor remedy all welfare issues. However, it would nevertheless enable an almost immediate response to be taken, thereby catching issues earlier before they become more serious and reducing animal distress. The appellants confirmed that since they have lived on the site, they have not suffered any losses to livestock, due to their ability to intervene at the earliest opportunity. Given the context above, in my view there is no adequate substitute in this instance for an on-site presence.
22. There would be a direct line of sight from within the kitchen of the proposed mobile home into the barns and some views out from the front of the mobile home. Although the positioning of the mobile home with its entrance door, and the main windows of the living space facing directly towards the blank elevation of the barn does limit to some degree the options for surveillance from within the mobile home.
23. However, the proposed mobile home could not be more closely located with its siting being within an area of hardstanding which forms the working yard to the barns. That inter-relationship would allow the occupant of the proposed temporary dwelling to step outside and listen to occurrences within the barns. Taking but a few steps from it would allow for visibility into the nearest opening of the barns where cattle are currently located, and I understand that lambs are brought into this barn for lambing.
24. For the above reasons I conclude that the intense, skilled and unpredictable nature of the work at Woodstock Farm, demonstrates that there is an essential need for a rural worker to live at the appeal site having regard to the requirements of the enterprise.

Viability of the enterprise

25. The Council agree that a temporary permission for three years could be granted to enable the viability of the business to be demonstrated at the end of that period, if I were to find the development accords with the other aspects of Policy H7 of the LP.
26. The appellant has submitted trading figures and accounts which indicate that the business is capable of making a profit whilst enabling both of the appellants to take a wage commensurate with that expected in agriculture, despite the infancy of the business. There is also evidence on site of the substantial financial commitment that has been made into the enterprise, with a large agricultural building currently under construction, which is in addition to a range of both older and modern buildings which currently provide hay storage, livestock buildings and a farm shop. This demonstrates a firm intention and ability to develop the business.

27. On this basis, I find that there is sufficient evidence to demonstrate that there is a reasonable prospect of the business being able to operate for a period of three years, and having regard to the level of financial investment that has already been made into the site and its buildings. A temporary permission would allow this to be tested.

Alternative Accommodation

28. The Council have provided evidence of a dwelling that was available for purchase in 2019, in close proximity to the site. However, it was discounted by the appellants due to its size and the investment required in order to renovate the dwelling. This property has subsequently been sold and the Council confirmed at the Hearing that there are no other properties currently available in the locality following a web based search.
29. Even if I were to accept the Council's case that the nearby dwelling would have been within the appellant's budget, despite its proximity to the appeal site it would not have met the appellant's requirements to be within sight and sound of their livestock and therefore would not satisfy the functional need for the reasons I have previously outlined.
30. Whilst these examples only provide a snapshot of what is available at the time, I consider that even if a dwelling were to become available in the future in the nearby village of Cold Norton, it would not offer the same level of on site supervision afforded by the mobile home located on site.
31. The Council, during the hearing, advised that an agricultural workers dwelling has been recently constructed on an adjacent site, which overlooks the appellants land. However, there is nothing before me to suggest that this isn't currently occupied in compliance with the agricultural occupancy condition. Therefore, whilst this dwelling could meet the functional requirements of being within sight and sound of the appellants animals, it is not currently available and therefore does not provide a reasonable alternative at this time.
32. Therefore, I am content that there is currently no alternative accommodation available which would meet the appellants requirement to be within sight and sound of their livestock to ensure they could deal with any animal welfare issues arising.

Appropriate Location

33. The appeal site is not conveniently accessible other than by private vehicle on account of it being some distance from both the limited services and facilities within Cold Norton and to the larger settlements of Maldon or South Woodham Ferrers. There is no indication that the appeal site is well served by public transport and the nearest bus stop is in Cold Norton.
34. The route that must be taken to Cold Norton, if walking or cycling, is either by using a footpath through the nearby church graveyard and then across a field or walking along lanes. The lack of footpaths or streetlighting would make it less attractive for people to walk, especially for small children going to school.
35. I therefore consider that occupiers of the proposed development would be likely to be reliant on the private car to access a full range of community facilities such as shopping, healthcare, leisure and entertainment, given the distance to the nearest sizeable town.

36. There would be some benefits associated with a reduction in the need for the appellants to travel to work as previously they lived approximately 7 miles from the site. However, there would still be journeys associated with traveling between the appellants other parcels of land at times when these areas were used for grazing. Therefore this is a neutral effect in terms of the travel undertaken by the appellant.
37. However, the nature of a rural enterprise is that it is within a rural location and therefore it is unlikely to be located close to services and facilities and Paragraph 80 of the Framework, permits the development of isolated dwellings associated with rural enterprises. It is therefore likely that such dwellings would be away from services and facilities. As I have found an essential need for a temporary agricultural dwelling to be located on the site, there is sufficient justification for its location remote from services and facilities.

Conclusion – Essential Need

38. In conclusion I am satisfied that there is sufficient evidence to demonstrate that there is an essential need for a full time worker in connection with the existing agricultural business on the site, and that there are no suitable alternative dwellings available. The enterprise has reasonable prospects of becoming a viable business with secure future prospects and the accommodation is commensurate with the needs of the enterprise. Therefore in this regard the development accords with policy H7 of the LP.
39. In complying with policy H7 of the LP, the Council agreed at the Hearing that the proposal would not conflict with the spatial strategy set out within policies S1 and S8 of the LP.

Living Conditions – Noise and Disturbance

40. As outlined above the mobile home has been sited centrally within the existing farmyard in close proximity to the existing buildings. It has been confirmed both during the Hearing and from what I witnessed on site that the buildings closest to the mobile home are used as a workshop/storage and hay storage and farm shop. The livestock are located in movable field shelters to the front of the mobile home, or in the buildings located directly opposite or to the side.
41. There is a significant likelihood of disturbance to future occupants of the mobile home from the normal day to day operations of the farm, and from sounds of the animals, due to the close proximity of the buildings housing livestock. However, the occupation of the mobile home would be restricted to someone employed or directly involved with the farm and I have found there is an essential need for the mobile home to be within site and sound of the livestock in order to be able to react to any welfare issue.
42. Therefore, the development would provide suitable living conditions, with particular regard to noise and disturbance, noting the specific needs of the future occupiers, in accordance with Policy D1 (4) of the LP which requires development to protect the amenity of surrounding areas taking into account noise.

Living Conditions – Amenity Space

43. Policy D1 of the LP sets out the requirements for design quality, including at D1(2) to provide sufficient and usable private amenity spaces. The Maldon

District Design Guide Supplementary Planning Document 2017 (SPD) sets out that an adequate amount of amenity space should be provided which is in proportion with the type of dwelling and the character of the area. However, the guidance does not set out any specific requirements for mobile homes.

44. The block plan indicates a small area of amenity space provided directly to the rear of the mobile home. However, this is not currently in place as a fence has been erected directly behind the mobile home, but access is provided through a gate into a large rectangular grassed area.
45. The size of the garden area shown on the submitted plans is very modest and would not be of sufficient size to enable it to fulfil a range of functions, such as those suggested in the SPD which include hanging out washing, sitting out and space for a kick around.
46. However, the appeal site is part of an agricultural holding located in a rural area and as such the occupiers of the mobile home would have access to a wider range of open spaces and as part of an active farming lifestyle have the opportunity to enjoy the wider benefits of the countryside. In addition, within close proximity of the mobile home is an area that provides sufficient space for the appellants children to play, in relative safety, away from the working farmyard.
47. The appellant advised that this area has previously been used for grazing and now also provides access from the farm shop and table and benches have been placed in this area. There is also a small vegetable patch in one corner and there was also evidence of children's play equipment.
48. I note the concerns raised by the Council with regard to the privacy afforded to this area, given its location adjacent to the road. However, the site is screened from the road by an existing established hedgerow. Whilst this does afford glimpsed views from the road into this area, having regard to the rural nature of the road any passers-by are likely to be infrequent. Therefore, I am satisfied that it would provide an acceptable area which could fulfil a range of functions and that the use of this area for domestic garden could be secured by condition.
49. In conclusion, having regard to the wider land within the appellants control, beyond the area edged red on the site plan, I am satisfied that the occupiers of the mobile home would have access to sufficient usable amenity space that would be afforded an acceptable level of privacy in accordance with policy D1 of the LP.

Character and appearance

50. The mobile home is located within the working farm yard of Woodstock Farm, with the associated agricultural buildings forming a close knit grouping. The appeal site is surrounded by large open fields with native hedging along the road opposite the site. The existing farmyard and buildings contribute to the rural appearance of this part of St Stephens Road, with other similar development also evident on the opposite side of the road.
51. The rear elevation of the mobile home is visible from St Stephens Road, but its longer side elevations are screened as a result of its positioning in close proximity to the existing agricultural buildings. However, as a result of its

colour and position in relation to the road there is a modest degree of harm to the character and appearance of the area.

52. The appellants confirmed that whilst the existing mobile home has a white/cream finish, which is particularly stark in its appearance against the darker finishes of the agricultural building. It would be possible for the mobile home to be painted. The Council also agreed that details of an appropriate colour could be agreed by condition.
53. Therefore, I am satisfied that if a darker colour were applied to the finish of the mobile home it would be less prominent within the landscape. Furthermore, the siting of the mobile home has been designed to minimise the adverse impact on the character and appearance of the area.
54. The Council have referred me to an appeal decision¹ whereby an Inspector concluded that the siting of a caravan positioned against a large agricultural building would emphasize its prominence and discordant nature, harmful to the character and appearance of the area. However, I do not have full details of that appeal and so cannot be sure that they represent a direct parallel to the appeal proposal in terms of the siting, which in this case is enclosed by a number of agricultural buildings or whether any mitigation measures were considered as part of that appeal.
55. In conclusion, taking account the temporary nature of the proposal, with an appropriate colour applied to the exterior of the building, the proposal complies with policies H4, H7 and D1 of the LP, which together require development to be designed to minimise the adverse impact on and have to regard to the character and appearance of the area.

Effect on the Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Crouch and Roach Estuaries SPA and Ramsar Site.

56. The site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) zone of influence for the Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Crouch and Roach Estuaries SPA and Ramsar Site.
57. The Essex coastline is one of importance for birds and their habitat. It is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
58. The proposed development falls within the scope of the RAMS as relevant development. Given that the proposal is for additional housing, and its proximity to the SPAs and SAC there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of this development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European sites.
59. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs and SAC. The likely significant effects arising from the proposal need to be considered in

¹ APP/X1545/W/20/3253807

combination with other development in the area and adopting the precautionary principle.

60. The Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the measures to address direct and in-combination effects of recreational disturbance on SPA. The RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England (NE), I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPAs and SAC.
61. A tariff to fund the mitigation, which is payable for all additional new dwellings is currently set at £125.58 per dwelling. The parties confirmed that at the hearing that the payment has been made and the Council confirmed that their third reason for refusal has been addressed and as such there was no longer a requirement for a unilateral undertaking to be submitted. Natural England has also confirmed that the RAMs will comprise a package of strategic measures to address such effects which will be funded through these contributions. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
62. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
63. Consequently, the proposal would not adversely affect the integrity of the SAC and SPA sites and would accord with policy S1 of the LP which seeks to ensure that development conserves and enhancing the natural environment.

Conditions

64. The Council's suggested conditions were used as a basis for discussion at the hearing. A commencement condition is not necessary as the mobile home has already been brought onto site. As the plans were amended as part of the appeal, I have imposed a condition listing the approved plans for the avoidance of doubt and as they also define the amenity space and parking areas which are not yet in place.
65. In accordance with policy H7 of the LP, conditions are necessary to restrict occupation of the mobile home to a person employed in agriculture and to secure the removal of the temporary accommodation after a period of three years, from the date of this decision, to enable the viability of the enterprise to be properly assessed.
66. A condition relating to foul drainage is necessary to ensure appropriate provision of the same. It was suggested by the Council's Environmental Health Officer and at the Hearing it was agreed by both parties that this should be added to the list of suggested conditions.
67. A condition requiring details of the exterior finish of the mobile home to be agreed is necessary in order to protect the character and appearance of the

area. Taking into account that any exterior painting is likely to be dependant on a period of good weather, I have allowed a reasonable period of time for the completion of these works.

68. A condition is also necessary to agree an enlarged area for the provision of amenity space to ensure adequate living conditions for the occupiers of the mobile home.

Conclusion

69. For the reasons given above and having considered all matters raised at the Hearing, I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Guy French, Foxes Rural Consultants	Agent
Melanie Bingham-Wallis, Foxes Rural Consultants	Agent
Sarah Bardwell	Appellant
James Bardwell	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Hannah Dungate (MSc Town Planning)	Planning Specialist, Development Management
Michael Johnson	Lead Specialist, Development Management

DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground (signed)
2. The Maldon District Design Guide Supplementary Planning Document 2017

SCHEDULE OF CONDITIONS

- 1) The occupation of the mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 2) The development hereby permitted shall be for a limited period being the period of 3 (three) years from the date of this decision. Thereafter, the development hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place. The development hereby permitted shall be carried out in accordance with the following approved plans: Farm Plan 1:7500; Site Plan WF001; Site Plan WF002; Floor Plan A1; Front and Rear Elevation A2; Right and Left Elevation A3
- 3) Unless within three months of the date of this decision a scheme for foul drainage is submitted to the local planning authority for approval, and unless the approved scheme is implemented within two months of the local planning authority's written approval, the use of the site for residential occupation shall cease until such time as a scheme is approved and implemented.
- 4) Unless within three months of the date of this decision a colour scheme for the exterior finish of the mobile home is submitted to the local planning authority for approval, and unless the approved scheme is implemented within twelve months of the local planning authority's written approval, the use of the site for residential occupation shall cease and the mobile home removed from the site until such time as a scheme is approved and implemented.
- 5) Unless within three months of the date of this decision a plan indicating an area of amenity space is submitted to the local planning authority for approval, and unless the approved scheme is implemented within two months of the local planning authority's written approval, the use of the site for residential occupation shall cease until such time as a scheme is approved and implemented.

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