The Planning Inspectorate

Appeal Decision

Hearing Held on 4 November 2021

Site visit made on 26 October 2021

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2022

Appeal Ref: APP/W1850/W/20/3245470
Cleeview Barn, Luston, Leominster, Herefordshire HR6 0AS

- 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 Christopher Smith against the decision of Herefordshire Council.
- The application Ref 191066, dated 18 March 2019, was refused by notice dated 30 September 2019.
- The development proposed is the permanent retention of a mobile home.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether there is an essential functional need for a permanent dwelling on site for a worker to support the smallholding.

Reasons

3. The proposal is for the permanent retention of a mobile home, already being lived in, on an agricultural/horticultural smallholding about 6.2 acres in size approximately 700 m to the north of the village of Luston alongside the B4361. The mobile home is sited next to a large barn dating from the 1980s which is used for the storage of agricultural equipment. There are four residential properties nearby on the other side of the B4361. The Council raise no objection to the visual impact of the mobile home on the site, and the site access and drainage arrangements are satisfactory.

4. The land with its barn is owned by Mr G Smith who inherited it in 2017 from a cousin after previously helping out informally on the smallholding. Following criminal damage to the barn and its contents, the mobile home was sited next to it in August 2017 as a site office/rest room for use during working hours and to deter intruders. The Council confirm that this use of the mobile home would be ancillary to the agricultural smallholding and thus permitted development. However, by early December 2018 Mr C Smith, the owner's son, was living full time in the mobile home. After a meeting to discuss the position an application to regularise the situation was submitted in 2019 and is now the subject of this appeal.

5. Since 2017 Mr C Smith, with the advice and part time help of Mr G Smith (who lives a few miles away), has run the smallholding and the intention is for this to

develop and continue with the benefit of the mobile home as permanent on-site accommodation. The smallholding would be transferred into the ownership of Mr C Smith in due course.

6. The smallholding comprises two fields, a rear field of about 3.3 acres laid to grass and used for a hay crop and sheep grazing and a front field of about 2.9 acres used more intensively in a variety of ways. Since 2017 this has included organic food production with several large vegetable beds, a small glasshouse, polytunnel, two poultry houses with runs accommodating up to 35 chickens, and a small fruit orchard with some Christmas trees. Investment has included stock proof fencing, a new electricity supply and a water bore hole for irrigation and watering animals. Free range eggs and vegetables have been sold direct from the site and to some local businesses.

7. Whilst the smallholding has operated in this way for nearly five years, with Mr C Smith resident in the mobile home for three, at the time of the site visit the current level of production appeared relatively modest with a reduced number of hens and the main vegetable beds temporarily grassed over. It is appreciated that the operation has been set back by the covid restrictions and other difficulties, but the track record of the business to date does not clearly demonstrate the potential for an ongoing, viable and full-time concern. No financial accounts were made available for the hearing.

8. There are a series of proposals for the future development of the business and associated income estimates. The business case submitted with the application and explained further at the hearing proposes increased egg production with up to 100 hens on 1 acre of the site producing around 2,000 dozen eggs and an annual income of about £2,700. Vegetable sales were projected at £1,400 in 2019 with £1,000 from the sale of vegetable boxes and £500 from a range of pot plants, flowers etc giving £2,900 and thus a total income of £5,600.

9. In subsequent years the intention is to supplement this with free range geese, ducks and turkeys for eggs and sale, also pigs, sheep and goats. A larger orchard of fruit trees is planned, underplanted with soft fruit. It is estimated these initiatives together with increased vegetable production could increase income by 75% to £9,800 in one year and 50% the next to about £14,000. With an estimated £3,000 income from outside gardening and contracting jobs total annual income would be about £17,000, a reasonable income for a single person business.

10. However, these figures are projections rather than achieved figures and make no allowance for expenditure on materials or on casual/part time labour. It is not clear that the wide range of agricultural/horticultural activity involved together with the necessary attention to sales can be carried out by Mr C Smith alone, and whilst family and friends are available locally to help out, without provision for payment this may not be sustainable in the medium term. The prospect of a viable long-term business on the site is therefore uncertain.

11. Paragraph 80(a) of the National Planning Policy Framework allows for individual homes in the countryside where there is an essential need for a rural worker to live permanently at or near their place of work. Policy RA4 of the Herefordshire Core Strategy 2015 defines this as where a sustained essential functional need for the dwelling as an essential part of a financially sustainable business can be demonstrated. The supporting text requires an accurate assessment of the needs of the rural enterprise to ensure it is soundly based, reasonably likely to

materialise and capable of being sustained for a reasonable period of time. To justify a dwelling the business must require close and continual supervision, for example day and night for supervision, inspection or emergency responses. Security alone is not sufficient to justify a dwelling but it may be a contributing factor with others.

12. In this case the appellant argues that a permanent dwelling is essential due to the need for an on-site presence to monitor the smallholding, to respond to unforeseen events, and to carry out tasks at unsociable hours. It is said that poultry/livestock need constant monitoring to ensure their welfare and to deter predators, whilst plants are vulnerable to sudden changes of weather and need early morning/late night irrigation and checks for pests. Security is said to be a further requirement given incidents of theft and damage in the past.

13. There is little doubt the operation of the business, should it expand along the lines envisaged, would benefit from the convenience of on-site accommodation, however the test is an *essential* functional need, a significantly higher bar, and whether a financially sustainable business has been demonstrated.

14. In relation to functional need, much of the business consists of vegetable and fruit production for which most tasks are predictable and can be pre-planned, even if at unsociable hours. Adverse weather conditions can generally be anticipated and precautions put in place if necessary. Whilst poultry/livestock require more continuous supervision, the free-range nature of the operation and relatively modest numbers reduces the risks involved making regular checks more feasible. Importantly, the Council confirm that during critical periods or emergencies the use of the mobile home as a site office/rest room could include the occasional overnight stay, thus reducing the need for a permanent dwelling on site. A dwelling would provide improved security, but with other properties in the vicinity there is some surveillance.

15. The limited amount of detail in the future business plans of the smallholding makes it difficult to carry out an accurate assessment of the needs of the enterprise and its financial sustainability as required by Policy RA4. The track record of the business to date is somewhat ambiguous and, for the reasons set out in paragraph 10, the prospect of a viable long-term business is uncertain. There is clearly more that can be done to develop the business using the mobile home solely as a site office/rest room to develop its credentials as a sustainable smallholding business before a permanent dwelling on the site could be justified.

16. For these reasons it has not been clearly demonstrated that there is an essential functional need for a permanent dwelling on site for a worker to support the smallholding. The proposal therefore conflicts with Policy RA4 which only allows for such a dwelling where it would be essential for the functioning of a financially sustainable rural business.

Conclusion

17. It is appreciated that the proposal is fully supported by the Parish Council and several local residents have submitted supporting representations as satisfied customers of the business. The scheme would provide some local employment, economic and environmental benefits and an affordable home for a local person. The concept of low impact, organic, sustainable farming is in tune with local traditions and has local community support. The proposal is also in line

with many of the aims of the Luston Group Neighbourhood Development Plan 2018 which seek to retain the rural character of the area and support existing small scale local employment. However, these factors do not outweigh the conclusions in relation to the main issue and the overriding conflict with Policy RA4 in the development plan.

18. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Smith	Appellant
Geoff Smith	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

David Wilkinson	Planning Enforcement Officer, Herefordshire Council