
Appeal Decision

Hearing (Virtual) held on 8 December 2021

Site visit made on the 10 December 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/L1765/W/21/3269456

Broom Copse, Spiers Lane, Bugmore Hill, Old Alresford, SO24 9TY

- 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 & Mrs Roger Smith against the decision of Winchester City Council.
 - The application Ref 20/00111/FUL, dated 14 January 2020, was refused by notice dated 19 January 2021.
 - The development proposed is for a forestry worker dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The forestry worker dwelling is already on site and occupied by the appellants, within what is an established forestry enterprise.

Main Issues

3. The main issues are:

1/ Whether there is sufficient justification for what would be a dwelling in a countryside location; and

2/ Whether the proposed development would have an impact on internationally recognised ecological sites, including the Solent Special Protection Area (SPA).

Reasons

Justification for dwelling in a countryside location

4. The wider site is set within woodland in a rural location. There is a long access drive from the highway to a cluster of buildings and other structures, with a large barn being central to this. There is some livestock on site, but only in small numbers. In my opinion, this is a forestry enterprise, as the appellant has stated. There is both the forestry maintenance of the woodland at Broome Copse Farm, but also the use of timber from this woodland to produce logs and charcoal to sell. There is some timber imported in from elsewhere to process, but I would still regard the overall enterprise as forestry based.
5. To the rear of the barn is a caravan which has been in this position for several years. There is a decking surrounding the caravan, with what appears a

- domestic garden area to the rear. This proposal is to retain the caravan as a permanent dwelling for the appellants, who already live here.
6. I would regard the site as being in a relatively isolated rural location, being that it is set a considerable distance from any settlement. Also, I would regard the appellants as being a form of rural worker, considering that forestry is commonly a rural based industry. Paragraph 80 of the National Planning Policy Framework (the Framework) advises that the development of isolated homes in the countryside should be avoided unless certain circumstances apply. This includes 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."
 7. The Framework policy on this matter is reflected in the Winchester Local Plan policies. Policy MTRA4 of the Local Plan Part 1 has regard to development in the countryside and is a restrictive policy, though does allow for "development which has an operational need for a countryside location, such as for agriculture, horticulture or forestry". Similarly, policy DM11 of the Local Plan Part 2 does allow for housing for essential rural workers subject to a criteria, including whether there is a clearly established existing functional need for the proposed dwelling. In supporting paragraph 6.3.24 provides more definition of 'functional need', being described as a situation where it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. I would regard these Local Plan policies as being generally in accordance with the Framework on this matter, even if there are some differences with the wording for example.
 8. It is clear from the evidence and my site visit that there is a lot of work, which would take many 'man-hours', at Broome Copse Farm through general forestry work in the woodlands, such as coppicing. There is also the cutting of the timber within the barn, for example. However, this work does not need to be done other than in usual working day hours. Therefore, this type of forestry work does not provide justification for the need for someone to live at the site and be readily available at most times. Furthermore, I see no reason why the forestry work undertaken by the appellants away from Broome Copse Farm results in a need for the caravan dwelling, seeming they are already working away from Broom Copse.
 9. The issue of crime has also been raised and I would acknowledge that people living at the site, especially with large pet dogs, would be a deterrent to trespass and theft for instance. Indeed, evidence was provided to explain how this has happened in the past. However, I am not persuaded that someone living on site is the only way that the issue of crime can be addressed. I recognise that without mains electricity this may be more difficult, but there may be other methods available. It was not clear that all other possible security methods have been explored and so I cannot come to the conclusion that potential crime results in it being essential for someone to live at the site.
 10. The other prominent reason given in the appellant's evidence for the need for the dwelling on site is for the maintenance of the kilns, used to dry wood to reduce its moisture content and also produce charcoal with burners. I acknowledge that these processes are a key aspect of this forestry enterprise.
 11. All the kilns do require some checks once the process has commenced. The processes involving the kilns seemed to be started in the day or evening, but

from the evidence it was apparent (from discussions at the Hearing for example) that they did not need to be constantly monitored overnight. It was explained that it was a long working day (from 6am to 11pm or even later) but there are four workers who may be able to cover this period in shift patterns for example, if necessary. It may also be possible to operate the charcoal kilns concurrently to reduce the number of hours they need monitoring throughout any given week.

12. I understand that there may be a risk of fires and it is useful to have someone at the site at all times for monitoring, but I am not satisfied that this is essential, as is the requirement set out within the Local Plan and Framework. There may be other ways to address the monitoring remotely or to include some sort of safety feature. Such alternatives do not appear to have been fully investigated before being discounted.
13. Whilst there is a degree of functional need, there is the question of whether it is essential that there is someone living on site. There is no other dwelling on site, but there are settlements in the area. In my view and based on the evidence I have read and heard, it is possible for the enterprise to continue to be viable without it being necessary and essential for the appellant to live on site. Living in the area should be sufficient and whilst housing prices may be high locally, I have no substantive evidence before me that there are no existing properties nearby that would be affordable to rent or purchase close enough to the site, if there was an overnight reason to go to Broome Copse Farm.
14. Essentially, I am not persuaded that being able to be within sight and sound of the kilns or the site in general is necessary outside of usual working hours at the site, which indicates living off-site in an existing dwelling is an option.
15. Traveling to and from the site from elsewhere could be an inconvenience for the appellant but this would not result in an essential need for a dwelling to remain at the forestry site. I accept that living off-site would probably result in car journeys including at night for work at the site, but these should be relatively infrequent and likely to be a short trip. Furthermore, living off site could allow the appellants to live in a less isolated location which could reduce the number of trips needed to access shops and services, for example. Therefore, such additional commuting trips would not be reason to justify a dwelling on the site rather than in the local area.
16. I recognise that there could be more kilns and burns throughout the week as the business expands, but I have assessed this proposal on the evidence before me and the current on site situation in terms of the kilns in place and working at the time of my site visit.
17. Both the Framework and policy DM11 state that a dwelling would only be appropriate if there was a functional need, with that need explained as needing to be essential. This is the test, and in my view crime prevention and the monitoring of the kiln/burner processes does not necessarily need overnight accommodation regularly and is therefore not an essential need. Even without the use of a dwelling on-site there is no substantive reason before me why the forestry business could not continue to be viable and potentially grow. In doing so the forestry enterprise can still continue to be part of the rural economy.

18. There may be other cases of rural enterprise dwellings being approved in the area, but I have considered this case on its own merits against planning policy. The other cases may have differing circumstances to the appeal before me.
19. The proposal to continue with use of the dwelling on site therefore fails to comply with policies DM11 and MTRA4 of the Local Plan. These policies require, amongst other things, to restrict development outside of settlement boundaries and to only support permanent rural worker dwellings where there is an existing functional need, amongst other things. For the reasons given above, the proposal also does not meet with the Framework policy on isolated dwellings in the countryside, in that there is not an essential need for a rural worker at this location to live permanently on site based on the current enterprise.
20. The Council has also raised the matter of the financial position of the business and whether it could support full time workers. The financial evidence has shown that the business can be profitable and that this is a growing enterprise, though it has suffered through the pandemic. From the evidence provided and given what I saw on site I see no reason why the business is not financially sound enough to continue trading into the foreseeable future, with or without a dwelling on site. I recognise that the profit levels are such that the income generated would be relatively low for the workers, but this appears to have been the case for some time with the appellant making clear that they are satisfied with their income from the business. It is also clear that the appellants work enough hours to be considered full-time workers.
21. As such, whilst I do not regard there being a sufficient enough functional need for the dwelling on site, I do not share the Council's concerns with regards to the financial position of the business or its ability to support a full-time worker. It is only the functional need matter that results in the proposal being contrary to policies DM11 and MTRA4 of the Local Plan.

Solent Special Protection Area (SPA)

22. As set out by Natural England (NE) there is a likely significant effect on the internationally designated sites in the Solent catchment (The Solent SPA) due to the increase in wastewater from new housing, although this can be addressed by new development achieving nutrient neutrality. NE has also set out that it is not just the SPA as mentioned in the Council reason for refusal No 2, but the Solent Maritime Special Area of Conservation (SAC) amongst others.
23. To respond to this the appellant has stated they use a cesspool for their foul drainage, with it emptied by a company in a different location away from the Solent catchment area. The appellant suggests a condition to ensure that waste does not connect with the Solent in any way or effect any other internationally designated sites.
24. If the waste was taken away from the Solent catchment then this would seem to reduce/avoid the possibility of likely significant effects of the aforementioned SPA or SAC and be in compliance with Local Plan policy CP16. If this appeal was to be allowed I would first consult NE further and consider their response to the appellant's solution. However, for the reasons set out with the first main issue, the appeal is to be dismissed and so I have not pursued this matter further.

Planning Balance

25. The dwelling does not have any significant visual impact to the landscape character. The business provides some support to local communities, helps with forestry work for local estates, improves the woodland around the site, and enhances biodiversity, all in an environmentally positive way. However, from the evidence provided this could be achieved without the dwelling on site.
26. There are some social, environmental and economic benefits from the dwelling being on site, but the proposal is for a dwelling in a generally inaccessible location in the countryside, which has intrinsic character and beauty, where there is not sufficient justification for this dwelling. As such, on balance the proposal is not a form of sustainable development.
27. The dwelling also provides a home for the appellants, which is beneficial to some degree for aspects of the business enterprise on this site. However, it would be an isolated dwelling in the countryside with there not being the essential need for it to be at Broom Copse to support this rural enterprise. As such, it is contrary to policy and so should be dismissed, with the other material considerations not being such that they indicate otherwise.

Conclusion

28. For the reasons given above in relation to the justification for the dwelling in the countryside I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

- Mr Roger Smith - Appellant
- Mrs Smith - Appellant
- Mr Nicholas Kingsley-Smith – Agent (KINGSLEY SMITH SOLICITORS LLP)
- Mr Kurt Smith
- Mr Leigh Joyce

FOR THE LOCAL PLANNING AUTHORITY:

- Mr Sean Quigley

INTERESTED PARTIES –

Ms Jennifer Norman – Observing only.

DOCUMENTS SUBMITTED DURING THE HEARING

Sales Invoice from KLG Services Ltd for wet waste removal to 'Thames Water Basingstoke' – From Appellant