



Appeal Decision

Hearing Held on 7 December 2021

Site visit made on 7 December 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/E2001/W/21/3278586 Owlet Farm, Main Road, Laytham YO42 4PR

- 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 Trevor Pears against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/02872/PLF, dated 28 August 2020, was refused by notice dated 8 January 2021.
 - The development proposed is the siting of a mobile home to be used as a temporary agricultural workers dwelling in connection with the applicants agricultural business.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing, the Council submitted details from Rightmove on-line sales of seven residential properties currently available to purchase within Holme-on-Spalding Moor. The appellant had the opportunity to comment in this at the Hearing and I have taken it into consideration in my Decision.
3. The mobile home is currently situated on the land and occupied by the appellant.
4. Since the time the appeal was submitted, the revised National Planning Policy Framework (the Framework) has been published in July 2021. My decision is made in the context of the revised Framework.

Background and Main Issue

5. Owlet Farm is a small farming enterprise that was originally part of a larger farmstead that has since been sold off with the appellant retaining approximately 20 acres of land. He also rents additional land mainly for the purposes of cutting silage and producing hay as a hay sales merchant. His cattle herd graze the land.
6. The main issue is whether there is an essential need for a rural worker to live at the appeal site.

Reasons

7. The appellant's main justification for the mobile home is to allow him to live on site ensuring a continuous on-site presence given the livestock responsibilities, in particular, the duties surrounding animal welfare, and overseeing the stockpiled baled hay.
8. The appeal site lies in open countryside, outside a defined settlement. The Framework 2021 sets out that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances including, amongst other things, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
9. Policy S4 of the East of Riding Local Plan 2012-2019, 2016 (ERLP) supports agricultural dwellings within the countryside provided an essential need is demonstrated. Its supporting text considers a temporary structure may be acceptable provided certain criteria are demonstrated. This includes evidence of a clear intention to develop the enterprise; there is a clear functional need for a full-time worker to be employed at the site; the activity is planned on a sound financial basis; the need for a dwelling cannot be met by a suitable existing dwelling.
10. Turning to the matters of the appellant's hay business, he explains he travels considerable distances distributing the baled hay. The hay is baled off-site and stockpiled within his own on-site barn, and stored in a number of other separate locations.
11. Whilst hay is a combustible material, along with other flammable products the appellant also stores on site, there are no details presented of fires or arson attacks at his own site, or other stored locations. Moreover, he can be away from site for nearly nine hours a day, four days a week distributing the hay. The hay bales and other materials are therefore unsupervised for significant periods of time. Given the nature of the hay sales business, there is no justification for an essential need for the appellant to live on site in this regard.
12. The appellant is responsible for the welfare of suckler cows that he confirmed equates to approximately twenty cows that calve over different times of the year. The calves are retained for a period of time before they are sold on. His aspirations are to increase the herd to approximately fifty suckler cows within the next two to three years.
13. The appellant points to the benefits of day and night supervision within sight and sound of the animals. I do appreciate that during calving and aftercare, and the initial start of the calves' lives, the day-to-day management of these animals would be more intense and not limited to normal working hours.
14. Given his extensive experience of suckler cows and his knowledge of cattle behaviour, the appellant provides hands on assistance during calving and aftercare. Supervision was explained to be especially pertinent given the threat of animal seizures which he has experienced when he managed a significantly larger herd. The financial consequences of losing cattle was also explained to be detrimental to him. Furthermore, the advantages and importance of living on site should animals at any time require essential care at short notice, was also highlighted by the appellant.

15. Even though the Animal Welfare Act and other regulations brought to my attention by the appellant may place strict responsibilities on animal welfare, that is not to say that this alone justifies living on the site, despite the letter of support from a vet. Technology can support off-site observation of animals although the appellant does not rely on CCTV nor has he investigated this. It can involve both vision and sound to remotely view the animals. He does not use alarm systems to alert him as to when the cow would calve.
16. There may currently be no internet provider at the site, nonetheless, the site is supported by electricity and there is nothing before me to demonstrate that technology as a means of remote supervision, to negate the need to live on site, could not be explored.
17. In terms of the appellant's financial investment at the site, it is acknowledged that he has farmed for considerable years with substantial experience of cattle. Even if he has relocated the herd from their original farmstead, there is no evidence presented to substantiate his claim of investment in any new farm buildings at this site. Nor has it been evidenced that he has invested in replacement suckler cows or farm machinery.
18. Additional agricultural housing on site would be necessary to accommodate increased animal numbers. A permission for an over-wintering cattle shed was granted in July 2017 but was unimplemented. The appellant states the contributing factors as to why this was not implemented related to the Coronavirus pandemic and his personal health circumstances. He also apports these same circumstances to the reason why this restricted the purchase of additional cattle. Whilst this may be the case, in terms of the building, a planning application for another shed has not been forthcoming despite his intended projections to increase cattle numbers in the short term. Overall, it casts doubt on his commitment to increase cattle numbers and thus develop the business.
19. The upscaling of livestock numbers within the 'Standard Man Day' includes the hay sales business which, the appellant disclosed at the Hearing, occupies approximately fifty percent of his time. He also stated that he intends to reduce his commitment to this in favour of increasing cattle numbers. In any case, even if there was sufficient full-time work for the appellant based on cattle management alone, that does not necessarily equate to an essential need to live on site.
20. Based on the financial report presented with the appeal, hay sales are the appellant's primary source of income and contributes significantly more to his finances than from the sale of calves. Upscaling of cattle would inevitably increase revenue from the additional sale of calves, albeit it is demonstrated to be a reasonably low return. I therefore find that the financial viability of the business is therefore uncertain.
21. The appellant has personal health conditions and provided a letter from a medical General Practitioner with details of his health circumstances.
22. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant is one with a protected characteristic for the purposes of

the PSED. However, as a result, it does not follow that the appeal should necessarily succeed, but rather that I have a duty to consider the implications of my decision upon this person.

23. I have had due regard to the appellant's health circumstances. Routine tasks he explained to be more tiring to complete as a consequence of his health situation. However, whilst it may be convenient to live on site, I have not been provided with substantive evidence to demonstrate precisely in what way living on site contributes positively to his health condition. I do however appreciate a negative appeal outcome may be a disadvantage to his welfare as there would be no welfare facilities on site. However, that is not to say that a means of providing some basic facilities could not be achieved to assist him.
24. The appellant explains that reducing his all-year round hay trade would have a positive effect on his health. However, precisely how this betterment would arise was not explained to allow me proper consideration. In any event, he could choose to reduce this part of his business at any time.
25. He comments that he is more susceptible to experiencing further detrimental effects on his health. As a consequence, he may not be able to drive and this would have a bearing on accessing the site should he live elsewhere. However, without further details on this matter, I am unable to comment.
26. He also states he aims to avoid disruption arising which would be especially prevalent by the imposition of relocating his home away from the site. I appreciate this is a genuine concern that could have a health impact. However, without further information to consider, in the round, I can apply only moderate weight to these health considerations based on the information before me. Therefore, I find there is no compelling evidence to lead me to consider living on site is essential for the benefit of his health.
27. The subject of rural security is a real concern to the appellant, although there are no details of thefts or intruders or other incidents occurring at the site or indeed that the site is vulnerable to crime opportunities. There is no evidence presented to demonstrate that the presence of a mobile home on site would indeed deter intruders. Moreover, there are numerous traditional and modern methods of enhancing site security that would be capable of serving the essential need. In addition, details of livestock escape or information on the likelihood of this happening have not been substantiated by evidence.
28. There is common ground between the two parties that there is no existing dwelling on site and therefore that potential is not available for the appellant to explore. In addition, both parties agree there is little opportunity to find alternative accommodation close to the site in Laytham. I have no reason to dispute this.
29. The range of alternative residential accommodation presented to the appellant by the Council, that they consider could be suitable, including a reasonable travel distance from the site at Holme-on-Spalding Moor, was discounted for various reasons. Amongst these was the type of tenure on offer, accommodation style and parking availability. Most of these reasons were attributed to not fitting with his own personal specifications and are not sufficiently robust reasons to justify living on site as to be essential.

30. Whilst locations of these available dwellings would require the appellant to travel to the site, it was not explained how the consequences of such would negatively impact upon the welfare of the animals, especially with the use of remote technology in place. Nor was it substantiated by the appellant how the effects of weather and road conditions would have a bearing on being able to access Owlet Farm.
31. Two approved schemes in recent years for new permeant dwellings was brought to my attention by the appellant. The Council explained that these were granted permission under different circumstances relating to significantly larger numbers of animals that justified these new homes in the countryside. In any event, the full details of the circumstances of these permissions were not before me to allow me to make a reasoned comparison.
32. In combination his businesses generate full time work for the appellant albeit I have concluded that his business as a hay merchant does not justify residential accommodation on site. Whilst the appellant states his firm intention is to increase cattle numbers, this has not been sufficiently substantiated and the evidence before me does not lead me to conclude that the business would be planned on a sound financial basis. Even if cattle numbers were increased, there is insufficient information before me to demonstrate that there would be a functional need to live on the site given technology could realistically play an indirect part of the welfare of the animals.
33. I appreciate the appellant is seeking short term accommodation with a view to a more permanent solution in time, and his health is a material consideration in my assessment. However, without additional information to further substantiate this evidence, it has not been demonstrated that there is an essential need to live on site for this reason alone.
34. Therefore, all things considered, I conclude that a compelling need for accommodation on the site has not been demonstrated and in the absence of any clear indication of an essential need for the mobile home, planning permission cannot be justified. The proposal thereby conflicts with Policy S4 of the ERLP 2016 that allows agricultural dwellings in the open countryside provided there is an essential need. Finally, the proposal would not meet the objectives of the Framework in its aims to avoid isolated homes in the countryside.

Other Matters

35. The appellant may have undergone other personal hardship that has contributed to his current living circumstances. However, whilst this is unfortunate, it does not compel me to reach an alternative decision on the matter.
36. Living on site may lead to an increase in local spend and may support local businesses without the need for 'excessive travel' by the appellant. However, these small benefits would not lead me to reach a favourable conclusion on the proposal before me.
37. Despite no letters of objection from local residents having been received to the proposal, this is a neutral matter that weighs neither for or against it.

Conclusion

38. I have found that an essential need for the mobile home within the countryside has not been demonstrated. The development would be contrary to the adopted development plan and there are no other material considerations to indicate a decision otherwise than in accordance with it. For the reasons set out above, I conclude that the appeal should be dismissed.

Alison Scott

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Trevor Pears	Appellant
Ms Davina Fillingham	Agent

FOR THE EAST RIDING OF YORKSHIRE COUNCIL:

Mr Peter Robinson	Senior Planner
Mr Adam Milner	Valuation and Estates Officer
Mrs Anna Fountain	Valuation and Estates Officer

DOCUMENTS SUBMITTED AT THE HEARING

Rightmove on-line sales particulars of seven residential properties currently available to purchase within Holme-on-Spalding Moor.