



Appeal Decision

Site visit made on 7 February 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/N0410/W/21/3270540

Challen's Chick Farm, Marsh Lane, Taplow, SL6 0DE

- 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 Challen against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/20/3519/FA, dated 20 October 2020, was refused by notice dated 19 February 2021.
 - The development proposed is erection of an agricultural workers dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural workers dwelling at Challen's Chick Farm, Marsh Lane, Taplow, SL6 0DE, in accordance with the terms of the application, Ref PL/20/3519/FA, dated 20 October 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Challen against Buckinghamshire Council – South Area (South Bucks). That application is the subject of a separate decision.

Preliminary Matter

3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.

Main Issues

4. The main issues raised in respect of this appeal are: -
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - b) The effect of the proposal on the openness of the Green Belt; and
 - c) Whether harm by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would those amount to the very special circumstances required to justify the proposal?

Reasons

5. Challen's Chick Farm is mostly pastureland with a series of mobile structures connected with the enterprise clustered mostly to one end of the site, although there are other structures at the farm. Planning permission was granted by the Council (planning ref: 17/02314/FUL) in July 2018 for the provision of a mobile home for a temporary period of three years to house an agricultural worker in connection with the appellant's hen laying enterprise. In 2021 planning permission has been granted at appeal for an additional agricultural building to support the future diversification for the housing of quail and to provide storage in connection with the business (appeal ref: APP/N0410/W/20/3256784). That development has taken place.

Inappropriate development

6. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts being their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The Framework states that the local planning authority should regard construction of new buildings as inappropriate development in the Green Belt unless it is one of seven specific exceptions (paragraph 149) of the Framework. However, the proposal would not fall within any of those exceptions. Policy GB1 of the South Bucks District Local Plan (Local Plan) adopted March 1999, although of some age, sets out to control development in the Green Belt and also sets out a number of exceptions for the construction of new buildings in the Green Belt. However, despite relating to an agricultural enterprise, a proposal for a dwelling would not fall within the Policy GB1 exceptions.
8. In not complying with the Framework and Policy GB1, the proposal would be inappropriate development in the Green Belt. Both parties agree that the proposed dwelling represents inappropriate development in the Green Belt.

Openness

9. The proposal would introduce permanent built form on part of the site that is currently open and undeveloped, and this would result in loss to openness of the Green Belt. Furthermore, the proposed dwelling would be larger than that of the temporary dwelling and would be a permanent building with associated residential paraphernalia, vehicle movements and host lighting during the hours of darkness. This would, therefore, have a greater impact on openness than the temporary dwelling. Whilst the effects would be moderate, there would be a degree of harm arising from this development, in addition to that arising from the inappropriate nature of the development. Consequently, I find that the proposal does not comply with the Framework as a permanent dwelling would not preserve the openness of the Green Belt which is an essential characteristic of Green Belts.

Other considerations

10. Planning permission has been granted by the Council for the provision of a mobile home for a temporary period of three years to house an agricultural worker in connection with the appellant's hen laying enterprise. The Council, having regard to the advice of its Agricultural Consultant, considered that an

essential need had been demonstrated for a rural worker to live on site and that granting a temporary planning permission would allow for the business to demonstrate that it would be financially viable and sustainable.

11. The business employs 4 full time employees and flocks have increased from 200 commercial breed hens to 6,000 laying hens with the farm expanding to incorporate laying quails. Indeed, the Inspector in considering the agricultural building appeal confirmed that the site contained an existing business which has a proven track record of growth, and which intends to further diversify. Contrary to the view of the Parish Council and some interested parties I am satisfied that the site is a functioning poultry farm.
12. Over the temporary dwelling planning permission period the enterprise has shown itself to be profitable, therefore it is a financially viable and sustainable business. The Council, again having regard to the advice of its Agricultural Consultant, considers that the proposal for a permanent agricultural worker's dwelling has demonstrated that there remains a need for a rural worker to live on site to meet the long-term needs of the business and to meet the welfare requirements of the poultry. This weighs significantly in favour of the proposal.
13. It has been highlighted that the farm owner lives nearby. However, living off-site would not provide the same surveillance of the paddocks and laying units as living on-site.
14. The dwelling would be of an acceptable size for its function as an agricultural worker's dwelling. It would be of simple design and form. The first-floor accommodation being within the roof would create a dwelling with low eaves and ridge. As such, it would not be visually harmful to the character and appearance of the area. From what I saw I do not consider there to be any other existing buildings at the site that would be suitable for residential occupation.
15. Although some of the structures at the site may be of a temporary nature and the poultry laying units moveable within the site, the appeal site is an active poultry farm. Locating a dwelling close to the existing permanent agricultural building would ensure that the dwelling would not appear as a substantially isolated or incongruous feature within the rural landscape. This is a modest benefit of the proposed scheme.
16. The proposed dwelling would be erected some distance from the nearest existing residential occupiers in the area. It would not be significantly obtrusive to neighbouring occupiers in their outlook and its residential use, including vehicle traffic, would be unlikely to generate substantial noise or disturbance that might be harmful to existing neighbouring residents' living conditions. However, these matters hold neutral weight as the proposal would be required in planning terms to be acceptable in these respects.
17. The dwelling would be constructed outside of National Flood Zone 2. Though concern is raised to flooding, there is limited evidence to suggest that there is a flooding issue that would be exacerbated by the proposal.
18. There is no substantive evidence before me that would indicate the proposal would create a precedent for other similar development.

Other Matters

19. The Council has identified that the appeal site is located within 5.6km of the Burnham Beeches Special Area of Conservation (BBSAC). Although not specified as a potential reason for refusal by the Council, this is a matter highlighted by the Council to be relevant to the proposed development.
20. Core Policy 9 of the South Bucks Local Development Framework Core Strategy sets out the principle of protecting the BBSAC. The Framework also requires the conservation and enhancement of the natural environment.
21. The April 2018 judgement (*People Over Wind v Coillte Teoranta*, ref C-323/17) ruling determined that the development cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of agreed mitigation measures.
22. The BBSAC site is protected and subject to statutory protection as an internationally important habitat for ancient beach and oak forest with its shrub layer, which together is rich in invertebrates and epiphytes. Many of the invertebrates and epiphytes, some of which are nationally rare, are dependent on the ancient trees, along with good air quality and land management for their survival. The BBSAC is an important site and to have such a wide range of habitats rich within a relatively small area is noted to be unusual. New households in the Council's area would increase recreational disturbance by having adverse effects on the nature conservation interests of the site from contamination, trampling/wear, harvesting, and difficulties in managing the site.
23. Natural England has confirmed that when there is sufficient scientific uncertainty about the likely effects of a proposed development, the precautionary principle is applied to fully protect the qualifying features of the European Site designated under the Habitats Directive. For new housing within 5.6km of the BBSAC Natural England recognises that new housing can be expected to result in an increase in recreational pressure. Mitigation measures will be necessary to rule out adverse effects on the integrity of the BBSAC from the cumulative impact of development.
24. I agree that the proposed development has the potential to increase disturbance to the BBSAC ancient beach and oak forest with its shrub layer and the invertebrates and epiphytes that it hosts through increased recreation pressure from additional households. Adequate mitigation clearly could not be provided on-site. I, therefore, must consider whether measures could be put in place to avoid or mitigate the impact of the pressure arising from the proposed development on the BBSAC and the effectiveness of any proposed measures.
25. The Council has adopted a Strategic Access Management and Monitoring Strategy (SAMMS) and the approach is set out in the BBSAC SAMMS Supplementary Planning Document (SPD). The SAMMS, which is supported by Natural England, indicates that a financial contribution to SAMMS is required to be secured by legal agreement. The mitigation strategy includes projects for visitor access management, monitoring and education measures on the BBSAC to mitigate the effects of new development upon the conservation interests of the site.

26. I consider that in order to mitigate the impact of increased recreational disturbance created by the new household proposed by the planning application, a financial contribution to the SAMMS is necessary to mitigate the impact of the development which may negatively affect the BBSAC. The mitigation measures to be implemented within the BBSAC would be funded from collection of the standard SAMMS tariff. This would ensure that the impact will not be significant in the long-term. Both the Council and Natural England have confirmed that the proposed financial contribution to mitigate the effect on the BBSAC is sufficient to avoid an adverse impact on the integrity of the SAC arising from the proposed development.
27. The Appellant has provided a completed Section 106 Legal Unilateral Undertaking (UU) to ensure this payment. Given the discussion above, completion of such an obligation would be necessary to make the development acceptable in planning terms. Both the Council and Natural England comment that the UU would adequately secure the deliverability of appropriate measures and the Council advises that the UU removes their objections concerning the BBSAC with regard to its mitigation and maintenance.
28. I conclude that the proposed development does include appropriate mitigation to ensure that it does not, in combination with other development, have an adverse effect of the BBSAC. Consequently, the proposal would not materially conflict with Core Policy 9 of the Core Strategy.

Planning balance and conclusion

29. Paragraph 80 of the Framework states that planning policies and decisions should avoid development of isolated homes in the countryside unless 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. Both the Framework and Policy GB1 indicate that inappropriate development can be approved if very special circumstances exist that outweigh the harm to the Green Belt. Therefore, the essential need for a rural worker at the site would have to amount to those very special circumstances to allow a new dwelling in the Green Belt.
30. The temporary planning permission for a mobile home has enabled the business to demonstrate that it is financially viable and sustainable such that this demonstrates an essential need for a rural worker to live permanently at their place of work. The permitted agricultural building has allowed for further expansion of the enterprise. I have established that there is a justified essential need for rural worker to live permanently at the enterprise. I consider the size of the proposed dwelling to be reasonable for its purposes. The proposal is acceptable in regard of those other considerations and appropriate mitigation has been secured to ensure that the development does not have an adverse effect of the BBSAC.
31. The essential need for a rural worker to live at the site carries significant weight that amounts to the very special circumstances in this case sufficient to outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness.
32. For the reasons set out above, the appeal should be allowed.

Conditions

33. I have considered the planning conditions suggested by the Council in light of paragraph 56 of the Framework and the advice in the Planning Practice Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
34. Given I have allowed the appeal on the basis of essential need for a rural worker to live permanently at the enterprise being the very special circumstances to justify approval in this case, a condition limiting the occupation of the dwelling to an agricultural or forestry worker is necessary.
35. A condition relating to materials is appropriate in the interests of the character and appearance of the area. In the interests of health and wellbeing of existing and future residential occupiers, conditions relating to contamination risk are appropriate. Condition 5 is fundamental to the acceptability of the proposal given the risk to human health; therefore it is necessary to be agreed before development takes place.

Nicola Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun before the expiration of three years from the date of this permission.
- 2) This permission relates to the details shown on the plans hereby approved: Location Plan, Site Plan, Proposed Elevations and Proposed Roof Plan.
- 3) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry as defined in Section 336 of the Town and Country Planning Act 1990 (or in any statutory amendment or re-enactment thereof), or a dependant of such a person residing with him or her, or a widow or widower of such a person.
- 4) The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans hereby approved or in materials which shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. The development shall thereafter be constructed and maintained in accordance with those materials hereby approved or approved in writing by the Local Planning Authority.
- 5) Prior to the commencement of development hereby permitted, the following components of the scheme to deal with the risks associated with contamination of the dwelling and curtilage edged red on the Location Plan shall each be submitted and approved in writing by the Local Planning Authority: -
 - i) A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminations associated with those uses
 - A conceptual model of the site indicating courses, pathways and receptors
 - Potentially unacceptable risk arising from contamination at the site
 - ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, pests, woodland and services lines and piles, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 6) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for written approval. The approved monitoring and maintenance programme shall be implemented in full prior to the first use or occupation of the development.
- 7) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the written approval of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the written approval of the Local Planning Authority in accordance with condition 6.

End of Schedule