



Appeal Decision

Site visit made on 5 July 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2022

Appeal Ref: APP/J1860/W/22/3294612

Apple Tree House, Birts Street, Birtsmorton WR13 6AP

- 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 Edward Newton against the decision of Malvern Hills District Council.
 - The application Ref 21/00630/FUL, dated 26 June 2021, was refused by notice dated 24 September 2021.
 - The development proposed is the temporary siting of two static caravans.
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Decision

1. The appeal is allowed and planning permission is granted for the temporary siting of two static caravans, at Apple Tree House, Birts Street, Birtsmorton WR13 6AP in accordance with the terms of the application, Ref 21/0630/FUL, dated 26 June 2021, and the plans and documents submitted with it, subject to the following conditions:
 - 1) The caravans hereby permitted shall be removed from the site and the land restored to its condition before the development commenced, no later than five years from the date of this permission.
 - 2) Within one month from the date of this permission a Warning and Flood Evacuation Management Plan (WaFEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved WaFEMP shall be implemented for the duration of the permission.

Preliminary Matters

2. The application form referred to the site as Apple Tree House, but the appeal form referred to it as Apple Orchard House. I shall refer to it as Apple Tree House. Regardless of this variation, the location of the site is clear from the submitted site plans.
3. At the time of my site visit two caravans were located in the positions shown on the submitted plans. The appellant states they have been on site since 2018 and accommodate two workers in each caravan in association with the agricultural business at Millers Court Farm, which is approximately 300 metres away. The caravans are located in the garden of Apple Tree House, which is occupied by a manager for Millers Court Farm. Permission is sought for the caravans for a temporary period of 5 years while plans for alternative accommodation are pursued.

4. The South Worcestershire Development Plan (DP) is more than 5 years old and is currently undergoing review. However, I have been presented with no information to suggest there is a lack of the required housing land supply and as set out in paragraph 219 of the National Planning Policy Framework (the Framework), policies should not be regarded as out-of-date simply because they were adopted before the current Framework. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Weight is a matter for the decision maker to judge in the circumstances of the case. The policies relevant to the determination of this appeal remain broadly consistent with the Framework in seeking to locate housing in sustainable locations, with access to sustainable transport, with exceptions made for rural worker dwellings in specified circumstances. I therefore afford substantial weight to any conflict with policies in the DP.

Main Issue

5. The main issue is whether the appeal site is a suitable location for the temporary siting of caravans for rural workers, having regard to the development strategy for the area and the accessibility of services and facilities.

Reasons

6. The site is classed as being within the open countryside. Policy SWDP 2 of the DP, states that in the open countryside development will be strictly controlled and limited to certain exceptions. One of the exceptions relates to dwellings for rural workers, subject to the terms of Policy SWDP 19 of the DP which considers criteria for rural worker dwellings under three categories.
7. Category A relates to permanent dwellings so does not apply to this proposal.
8. Category B relates to time limited temporary dwellings such as caravans, to support new rural enterprises until economic viability is established. Manor Court Farm is a well-established agricultural business, so I do not think the proposal fits under category B. The Council reached the same conclusion in their delegated report. Despite this, the Council commissioned an independent agricultural appraisal and the consultant considered that Category B was the closest to the proposal, but concluded that it did not meet the relevant criteria to benefit from category B.
9. On the evidence before me, the farm operation seems to be substantial and well established. However, there are 2 farm business partners, a yard manager and a herd manager, along with their families, living in houses on or near the farm. This should be sufficient to manage emergency situations and ensure animal welfare. Due to the length of the working day, many such situations may happen when other staff are on site anyway. Therefore, I agree with the Council and the agricultural consultant in concluding that a functional need to have additional workers living in close proximity to the farm has not been demonstrated. While the Council have raised no specific concerns, I have been presented with no details to confirm the economic sustainability of the enterprise. Consequently, regardless of whether category B is the appropriate category under which to assess it, the proposal cannot meet the functional or economic tests set out under Annex G of Policy 19, so fails to meet the criteria to benefit from category B.

10. Category C specifies that temporary or seasonal accommodation requirements to serve rural enterprises will be considered on a case by case basis, subject to criteria. The Council and the agricultural consultant concluded that the proposal could not benefit from category C as the workers are not seasonal, and the need for workers is not temporary. In support of this, reference is made to the reasoned justification for Policy SWDP 19, which mentions seasonal pickers and packers in horticulture.
11. When considering this appeal, I am required to reach my conclusion by reference to the specific wording of the policy rather than any perceived compliance with the overall objectives of the policy. Supporting text does not have the force of policy. In this case, the specific policy wording of category C is 'temporary or seasonal accommodation requirements to serve rural enterprises'. The Policy does not say that the requirement for workers must be temporary. The Policy says that the requirement for accommodation must be temporary. In the proposal subject to this appeal, the need for workers is permanent and ongoing, but the stated need for the accommodation, as set out under the proposal, is temporary while alternative plans are pursued. Therefore, in my judgement, on the specific wording of the policy, the proposal falls to be considered under category C of Policy SWDP 19, as it relates to a temporary accommodation requirement to serve a rural enterprise.
12. Consequently, the proposal needs to be assessed against the criteria of category C. These are that proposals need to demonstrate a proven business case for the accommodation, that there is no appropriate accommodation in nearby settlements, and that impacts on services, landscape and amenity can be mitigated.

Business case

13. As set out above, an essential need for additional workers to live permanently at or near the farm has not been demonstrated, as farm partners and managers already live at Millers Court Farmhouse and Apple Tree House. However, an 'essential need' (as set out under Annex G to Policy SWDP 19 and required by category A and B), is different from there being a business case for providing accommodation, which is the requirement of category C.
14. It is not contested that the farm operates a herd of 520 cows, milked three times per day at 04:30, 12:30 and 20:00 hours. Calving takes place all year round, averaging 47 cows calving each month. The routine operation of the farm is carried out by workers in shifts. While the caravans are not on the farm itself, they are only around 300 meters away, allowing workers to easily walk to the farm. This ensures there is no delay in workers starting a shift, due to factors such as road blockages or weather, helping to ensure that essential functions such as milking take place on time. It also means there are additional people nearby to help out as necessary if unexpected situations arise on the farm.
15. The current shortage of agricultural workers and the long hours and physical nature of the job makes recruitment and retention difficult. The caravans, which provide cost effective accommodation in a pleasant environment close to the farm, help the business attract and keep workers, which is vital to its ongoing viability.

16. During my site visit I observed only very limited services and facilities in the surrounding area. The parties agree that the site and surrounding area is not served by public transport and has limited services and facilities. As the caravans are located close to the farm, the occupants can walk to work. If they were living in any of the settlements in the surrounding area, they would be likely to have to use private motor vehicles to get to and from work each day. This would be costly and given the working times it would also be challenging, especially for non UK based workers without a UK driving licence¹. Occupants of the caravans would still need to access services and facilities associated with day to day living. Some essentials such as food can be delivered and others are likely to be needed less frequently. On balance, given the lack of sustainable travel options in the wider area, and the stated working patterns of the caravan occupants, it seems likely that the provision of accommodation so close to the farm reduces the overall number of journeys by vehicle when compared to workers living elsewhere and travelling to the farm for work.
17. As such, the proposal meets the requirements of Policy SWDP4 which requires that proposals demonstrate that the layout of development will minimise demand for travel. While there are no genuinely sustainable travel choices on offer, that would be the case if workers lived elsewhere in the area. This is supported by Framework paragraph 105 which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
18. The proposal helps the business recruit and retain staff, ensure essential farm operation are undertaken, and does not increase the overall need for travel. Consequently, there is a business case for the temporary caravans, while more permanent solutions are pursued.

Accommodation nearby

19. The appellant has stated that there is no suitable alternative accommodation in the area. This is supported by a property search covering a 5 mile radius from the farm. Only one property offered the required space to accommodate 4 workers at a reasonable cost. The cost was still high for an agricultural worker and the dwelling was in a location with no services or facilities so is no more sustainable as a location than the caravans. In addition, as considered above, any alternative accommodation would be some distance from the farm and hence likely to result in cost and practical difficulties in getting to work, especially without a private motor vehicle. On the basis of the information before me, there does not seem to be appropriate accommodation in nearby settlements.

Impacts on services, landscape and amenity

20. The site is large enough to accommodate the caravans and provide sufficient outside space for occupants of the caravans and Apple Tree House. The caravans and the associated domestic paraphernalia are largely screened from view from outside of the site by hedges and the house. As they are sited on garden land there is no encroachment into the surrounding countryside or onto agricultural land. Grouping the caravans together with the dwelling provides workers with a community in a pleasant living environment.

¹ The appellant states that this is the case for all 4 workers who currently occupy the caravans.

21. Power and rubbish collection is provided in association with the existing dwelling. Services in the area are limited and access to them is not significantly different from the caravans than if workers were living in one of the surrounding settlements. As such the proposal does not conflict with Framework paragraph 79 which seeks to locate housing where it will support local services.
22. The Council concluded that the caravans lie sufficiently above flood level but noted the road to the site is liable to flooding and is a dead end road. Consequently, a flood evacuation management plan is needed to avoid the site becoming a 'dry island' and ensure the safety of caravan occupants in the event of flooding. This can be secured via a condition.
23. Therefore, any impact on services, landscape and amenity is acceptable or can be mitigated. Consequently, As set out above, the proposal can meet the 3 criteria of category C of Policy SWDP 19 and can therefore benefit from the support it gives for a temporary accommodation requirement to serve a rural enterprise.

Other material considerations

24. I acknowledge that the caravans would be isolated dwellings, in the sense that they are remote from a settlement. They would not benefit from any of the exceptions set out under Paragraph 80 of the Framework with regard to allowing isolated homes in the countryside. However, the proposal is for temporary accommodation to support the agricultural business and the Framework also provides support for the rural economy. Paragraph 84 sets out that decisions should enable the sustainable growth of business in rural areas and the development of agricultural businesses. Paragraph 85 recognises that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations not well served by public transport. Given the temporary nature of the proposal, on balance, the support provided by paragraphs 84 and 85, outweighs any lack of compliance with paragraph 80.
25. The caravans are a temporary solution whilst plans are developed to convert buildings at Millers Court Farm to provide worker accommodation. This has been delayed due to the challenges faced by the dairy industry and problems created by the Coronavirus pandemic. I have been presented with no substantive evidence to support the stated intention to convert buildings to accommodation or any indication of the likelihood of such a proposal being granted permission. However, the temporary nature of this proposal allows time for permanent solutions to be investigated, be they the conversion of existing buildings or other solutions. The temporary nature of the caravans and the limited fixtures means they can be quickly and easily removed from the site at the end of the temporary permission and the site restored to its former condition.
26. I conclude that the appeal site is a suitable location for the temporary siting of caravans for rural workers in association with Millers Court Farm. The proposal complies with category C of Policy SWDP 19 of the DP and hence complies with Policy SWDP 2 of the DP. It complies with SWDP 4 of the DP in that it contributes to minimising demand for travel associated with the farm business. Together, these policies seek to safeguard the open countryside and encourage sustainable patterns of development. Furthermore, it accords with the support for rural business set out in the Framework.

27. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. There are clear benefits to the established farm business of providing accommodation, particularly in attracting and retaining workers. Caravans are a cost effective way of doing this and results in no harm to the surroundings. I have found that the proposal benefits from category C of Policy SWDP 19. Even if this were not the case, the significant benefits of the proposal to the agricultural business and the lack of any unacceptable impacts would lead me to conclude that the proposal was acceptable.

Conditions

28. The Council have suggested conditions, which the appellant has been made aware of and raised no objections to. I have considered the suggested conditions and amended them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance. The caravans are already on site, and have been for some time, so a condition setting a time limit for development to commence is not required. As the permission is temporary, and caravans would not be acceptable on a permanent basis, it is reasonable and necessary to add a condition to secure removal of the caravans and site remediation at the end of the permission period. Finally, it is necessary to secure a flood evacuation management plan in the interests of the safety of occupants of the caravans.

Conclusion

29. For the reasons given and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

Helen Davies

INSPECTOR