
Appeal Decision

Hearing (Virtual) held on 19 July 2022

Site visit made on 20 July 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/W0530/W/22/3296588
Butts Farm, Malton Road, Orwell, SG8 5QR

- 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 P & Mrs J Lawrence against the decision of South Cambridgeshire District Council.
 - The application Ref 21/04556/FUL, dated 14 October 2021, was refused by notice dated 7 December 2021.
 - The development proposed is erection of a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a new dwelling at Butts Farm, Malton Road, Orwell, SG8 5QR in accordance with the terms of the application, Ref 21/04556/FUL, dated 14 October 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr P & Mrs J Lawrence against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the appeal form in the interests of clarity.
4. Following the refusal of planning permission, the appellant submitted an amended plan addressing the Council's reason for refusal relating to the size of the smallest bedroom. The Council advise that the amended plan overcomes this reason for refusal, and I see no reason to disagree. It is not therefore necessary for me to address this matter further.
5. The Council's second reason for refusal refers in error to the settlement of Malton rather than the nearer settlement of Orwell. This was addressed during the hearing, with the Council confirming that their concern is with the relationship between the appeal proposal and Orwell. I have determined the appeal on this basis.
6. The Council's emerging Local Plan is at a very early stage, and the parties agree that its policies should be given no weight in the determination of this appeal.

Main Issues

7. The main issues are:

- Whether there is a justification for a dwelling to support a rural-based enterprise at the appeal site; and,
- The effect of the proposed development on the character and appearance of the area.

Reasons

Justification for a dwelling

8. Policy S/10 of the South Cambridgeshire Local Plan 2018 (the LP) designates Orwell as a Group Village where development of up to 8 dwellings will be permitted within the designated development framework. Policy S/7 of the LP states, amongst other criteria, that outside of development frameworks only uses which need to be located in the countryside or that are supported by other policies in the LP will be permitted. Policy H/19 of the LP sets out criteria with which proposals for dwellings to support a rural-based enterprise must comply to be acceptable. Amongst these criteria, a rural location must be essential to the enterprise, there must be a clear existing functional need for one or more workers to be readily available at most times, there must be no other accommodation or building suitable for conversion within the site or nearby, and the proposed dwelling must be no larger than that required to meet the reasonable needs of the enterprise.
9. The appellants and their family operate a self-storage business and a livery catering specifically for horses with medical and behavioural needs from the site, as well as raising crops in the surrounding area.
10. The self-storage business caters to predominantly local customers, including several local businesses. The business was established in 2006 at a nearby location before moving to Butts Farm following the grant of planning permission. Given the level of local custom, and as the business is well-established in the area, the rural location of the site is essential to the business.
11. The livery business requires access to fields and sufficient space for the exercising and care of the horses. A rural location is therefore essential for this business. Similarly, agriculture of the scale carried out by the appellants requires a rural location.
12. Overall, therefore, a rural location is essential to the enterprise.
13. Turning to the matter of functional need, the care of horses is carried out primarily by members of the appellants' family. As the livery caters to horses with medical and behavioural conditions, they require additional care, including the giving of medicine, beyond that typically associated with livery care. The appellants have been recognised as providing a particularly high standard of care by World Horse Welfare. There are no permanent employees associated with the livery yard. The care provided requires a presence throughout the day. It would be enhanced by greater proximity to the site as the family currently lives about fifteen minutes' travel from the site, which can result in a delay in the event of urgent treatment being required. The livery business therefore has a clear existing functional need for one or more workers to be readily available at most times.

14. The self-storage business is open from 6am to 10pm every day of the week. While access is electronically controlled, customer testimonies indicate that the presence of staff on site is seen as a benefit. Staff must be present to register new customers. The appellants have also testified that the site was targeted for theft when it first opened, resulting in Mr Lawrence sleeping on site overnight for several months to deter further incidents. The appeal proposal would allow the appellants to respond more quickly to incidents on site, as well as allowing them to keep guard dogs on site. At present the site is monitored remotely, limiting the appellants' ability to respond quickly to incidents on site. The cost of employing security on-site outside of operating hours is estimated to be around two thousand pounds a week, and the appellants argue that this is prohibitive.
15. While there may be additional measures that could be taken to improve security at the site, it is not clear how effective these would be. The Council has previously refused permission for additional lighting, and security cameras are already operating at the site, with the appellants monitoring these remotely. Given the site's rural location, natural surveillance is limited. On balance, there is a clear existing functional need for one or more workers to be readily available at most times to support the self-storage business for reasons of security and customer service.
16. The fields farmed by the appellants are scattered throughout the local area. While the farming requires regular involvement on the part of the appellants, it is not clear that this amounts to a need for workers to be readily available at most times, particularly as the appellants already live relatively near to the fields.
17. There is a need for the regular availability of workers in relation to the livery and self-storage businesses. Given the demands arising from the livery business in particular, the enterprise overall exhibits a clear existing functional need for workers to be readily available at most times.
18. During the hearing both parties indicated that there was no other accommodation within the site or nearby which is currently suitable and available or that could be made so through conversion and change of use. The appellants attested that the nearest dwellings, on the opposite side of Marston Road, are around twice the cost of construction of the proposed development. There is therefore no suitable accommodation available.
19. The proposed development is for a four-bedroom, two-storey house. The house would be occupied by the appellants and their two adult children, both of whom are employed in the enterprise. Given this level of occupancy, the proposed dwelling is no larger than that required to meet the reasonable needs of the enterprise.
20. Consequently, there is justification for a dwelling to support a rural-based enterprise at the appeal site. The appeal proposal would therefore accord with the relevant criteria of Policies S/10, S/7 and H/19 of the LP that are set out above.

Character and appearance

21. The proposed two-storey dwelling would be erected on a site with no existing dwellings. However, the house would be next to the existing agricultural building on the site, and so would be seen in the context of that building and the backdrop of mature trees to its north and west. Views of the house would

principally be from Malton Road and would be limited by the bund along the south boundary of the site. Such views would be at a distance given the separation from the road. The house would be finished in external materials appropriate to this rural location.

22. The house would be set away from the site frontage onto Malton Road. There are existing houses on the opposite side of Malton Road, but the site lies outside of the settlement of Orwell. The proposed dwelling would therefore be visually separated from any neighbouring dwelling. However, there are houses and businesses on Barrington Road to the north of the site that extend along that road beyond the depth of the appeal site.
23. The appeal proposal would create a new domestic curtilage around the house and would require extending the existing driveway across an open field. There would be some visual impact from this, but it would be restricted to the immediate vicinity, and could be mitigated by appropriate landscaping.
24. Within this context, and considering the development already carried out on the wider Butts Farm site, there would be little visual impact from the proposed development on the existing rural character of the site and its surroundings. It would not therefore be harmful to the character and appearance of the area and would accord with Policy HQ/1 of the LP. This policy requires, amongst other criteria, that development preserve or enhance the character of the local urban and rural area.

Other Matters

25. The converted barn on the opposite side of Malton Road is a Grade II listed building. This falls within the Orwell Conservation Area, which encompasses much of the built-up area of the village near to the appeal site but does not extend to the appeal site itself. The main parties agree that there would be no harm to the significance of these heritage assets from the proposed development. I see no reason to disagree with this given the separation distance and detailed design of the appeal proposal.

Conditions

26. I have had regard to the conditions suggested by the Council. Where appropriate I have amended the wording in accordance with national Planning Practice Guidance.
27. I have imposed the standard conditions relating to commencement of development (1) and specifying the approved plans (2) for the sake of certainty. I have also imposed a condition restricting occupancy of the house to someone employed at Butts Farm or their partners or dependants (3) given the specific arguments in favour of the proposal and in accordance with Policy H/19 of the LP.
28. A condition specifying the external materials of construction (4) is necessary to ensure that the finished appearance of the approved dwelling is acceptable in this location.
29. I have imposed two conditions relating to the control of disturbance from the approved construction (5, 6) to limit the impact on neighbouring occupiers.
30. A condition requiring that the dwelling be capable of connection to broadband internet (7) is reasonable and necessary given the importance of high quality and reliable communications infrastructure.

31. Conditions relating to landscaping of the site (8, 9) are imposed to ensure that the existing mature trees are retained and that the visual impact of the approved development is mitigated to a suitable extent. A further condition relating to surface and foul water (10) is justified to ensure that this is managed within the site.
32. Given the sensitive nature of the proposed residential use, a condition relating to the discovery of unexpected contamination (11) is reasonable to prevent harm to future occupiers.
33. The site is in a rural location sensitive to new development. To ensure that no unacceptable ecological harm occurs conditions relating to the carrying out of development (12), provision of biodiversity enhancement measures (13), management of trenches and culverts (14) and the management of external lighting at the site (15) are imposed.
34. I have imposed a condition removing Permitted Development rights for extensions and outbuildings from the approved dwelling (16). This is in accordance with condition H/19 of the LP, which requires that new dwellings to support a rural-based enterprise be no larger than that required to meet the reasonable needs of the enterprise.
35. I have not imposed conditions relating to the highway access as no alterations are proposed to the existing access. I have also not imposed conditions that replicate controls in place under the Building Regulations.

Conclusion

36. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

Appearances

FOR THE APPELLANT

Mr Paul Lawrence	Appellant
Miss Alice Lawrence	Appellant's family
Miss Anne Williams	Six Pump Court
Miss Charmain Hawkins	Brighter Planning Consultancy
Mr David Cousans	Architect

FOR THE COUNCIL

Mr Nick Yager	Senior Planning Officer
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**Schedule of conditions for appeal ref: APP/ W0530/W/22/3296588
Butts Farm, Malton Road, Orwell, SG8 5QR**

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 518/10, 518/11, 518/12 Revision A and 518/13.
3. The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed at Butts Farm, Malton Road, Orwell as defined by the blue line on the plan ref: 518/10, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
4. The materials to be used in the external construction of the development hereby permitted, shall follow the specifications in accordance with the details specified within the application form unless otherwise agreed in writing by the local planning authority.
5. No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.
6. No development (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan has been submitted to the Local Planning Authority for approval in writing. This shall include the following, which shall be adhered to throughout the period of development:
 - a) full details of any piling technique to be employed, if relevant
 - b) contact details for site manager, including how these details will be displayed on site.
7. Prior to the first occupation of the dwelling, infrastructure to enable the delivery of broadband services, to industry standards, shall be provided for that dwelling.
8. No development above ground level shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - a) indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock, boundary areas,
 - b) the access driveway,
 - c) boundary treatments indicating the type, positions, design, and materials of boundary treatments to be erected,
 - d) an implementation programme.
9. All hard and soft landscape works shall be carried out and maintained in accordance with the approved details. The works shall be carried out prior to the occupation of the approved house or otherwise in accordance with the

approved implementation programme. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place as soon as is reasonably practicable.

10. Prior to commencement of development a scheme for the disposals of surface water and foul water that can be maintained for the lifetime of the development shall be provided to and agreed in writing with the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
11. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
12. All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecology Update Walkover Survey (Applied Ecology Ltd., February 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
13. Prior to the commencement of development above slab level, a specification and location plan for a scheme of biodiversity enhancements contained within the Ecology Update Walkover Survey (Applied Ecology Ltd., February 2021) shall be supplied to the local planning authority for its written approval. The approved scheme shall be fully implemented within an agreed timescale.
14. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe culverts are in place. The measures may include:
 - a) Creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day.
 - b) Open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.
15. Prior to occupation a "lighting design strategy for biodiversity" features or areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or

prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no works or development as described under Schedule 2, Part 1, Class A or Schedule 2, Part 1, Class E of the Order shall be undertaken without the prior written permission of the local planning authority.