



Appeal Decision

Hearing held on 18 August 2022

Site visits made on 17 and 18 August 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal Ref: APP/E2734/W/22/3298965

Mowbrey Park, Scate Moor Lane, Whixley, YO26 8FJ

- 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 Mowbrey Partnership against the decision of Harrogate Borough Council.
 - The application Ref 21/01900/FUL, dated 2 May 2021, was refused by notice dated 5 May 2022.
 - 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 and garage and removal of existing mobile home at Mowbrey Park, Scate Moor Lane, Whixley, YO26 8FJ, in accordance with the terms of the application, Ref 21/01900/FUL, dated 2 May 2021, subject to the attached schedule of conditions.

Procedural Matters

2. The description of development was altered at validation stage. The revised wording, which appears on the Council's decision notice and the statement of common ground, provides a fuller description of the proposal than that contained on the original application form, so I have used it in the decision above.
3. Prior to the hearing, the Council indicated that it no longer wished to defend its reason for refusal in relation to the need for a full time worker on the site, and the lack of availability of other suitable accommodation nearby (criteria B and D of Policy HS9 of the Harrogate District Local Plan 2020). This change in position was confirmed at the hearing, and I have taken it into account in my determination of this appeal.

Main Issue

4. The main issue is whether the proposed agricultural workers' dwelling is justified by the needs of the existing business at the site, having regard to policies which seek to restrict development in the countryside.

Reasons

Need for the dwelling

5. Mowbrey Park is located in the countryside. Development in this area is restricted by Local Plan Policy GS3, with support only given to proposals which are expressly permitted by other policies of the plan. In this case, the pertinent policy is HS9, which allows for new isolated dwellings in the countryside for occupation by rural workers, reflecting the advice in paragraph 80 of the National Planning Policy Framework (the Framework).
6. The appeal relates to an existing egg production facility at Mowbrey Park, which has been in operation since 2017. The agricultural holding, which extends to around 11 hectares, contains a poultry house which provides accommodation for some 16,000 free range hens. The hens have access during the daytime to the adjacent area of grass and woodland.
7. Temporary planning permission was granted in 2017 for a mobile home on the site, to meet the accepted functional need for a worker to live close to the egg production facility. The mobile home was subsequently installed and continues to provide accommodation for the appellant, who owns and manages the farm business.
8. The current proposal seeks to remove the mobile home and replace it with a permanent 3 bedroom dwelling with a detached garage, which would be occupied by the appellant and his wife. In the longer term, it is anticipated that the appellant's son would take over the running of the business, and would occupy the proposed house with his family.
9. Policy HS9 sets out a number of criteria which proposals for rural workers dwellings must comply with to be acceptable. Additional detail is provided in the Rural Workers Dwellings Supplementary Planning Document 2021 (SPD). Criterion A of Policy HS9 requires there to be a clearly established existing functional need for a dwelling on the site. This not disputed. The appellant has explained that, whilst many of the automated systems can be operated and monitored remotely, a stockman needs to be available most of the time. Emergencies can occur if the hens become anxious and start to panic, which can lead to large scale losses if not dealt with quickly. From the information provided, I am satisfied that a functional need exists, as required by criterion A.
10. A staff member needs to live close by so they can reach the egg production facility quickly if necessary. Whilst little information has been provided about the suitability of any alternative accommodation in the vicinity, it is apparent that there are no other suitable buildings on the holding itself site. Taking account of the sparsely populated nature of the surrounding area, with little residential accommodation close by, I am satisfied that criteria D of Policy HS9 is also met.
11. The appellant has confirmed that 4 family members work on the farm. The appellant and his son work full time, whilst the other two workers are part time. Details of the duties carried out by each of the workers has been provided. The stated labour requirements for the farm corresponds with industry standard data for an egg production facility of this scale, as contained in the Farm Management Pocketbook (John Nix, 51st Edition, 2021). Based on

the information given, I am satisfied that the functional need relates to a full time worker. Criteria B of Policy HS9 is therefore met.

12. Accounting information for the years 2019-2021 shows that the facility has been financially viable, with an increasing level of profit reported over the three year period. I have no reason to suppose that the business should not continue to be financially sound. Criteria C is therefore met.

Scale of the proposed dwelling

13. The main disagreement between the parties relates to the scale of the proposed dwelling. Policy HS9 does not specifically mention dwelling size, but paragraph 5.56 of the supporting justification states that rural workers dwellings should be of a size commensurate with the established functional requirements. It goes on to say that dwellings which are unusually large in relation to the needs of the unit should not be permitted.
14. The SPD provides further detail on the matter of size, and in paragraph 5.6 indicates that support is unlikely for additional living space over and above that contained in the Nationally Described Space Standards (NDSS). In this case, the proposed dwelling would have an internal floorspace of around 150m², so would exceed the minimum standard of 102m² for a 3-bed dwelling. Whilst not included in the NDSS, but the proposal also includes a detached garage, which would have an internal floorspace of around 39m².
15. The SPD recognises that agricultural workers dwellings may require additional space to meet the needs of the business. The proposed house would contain a farm office, and there would also be a downstairs WC and utility, which would have shared business and domestic use. At the hearing, the parties agreed that, in combination, these elements would equate to around 18m² internal floorspace. Excluding those areas, the floorspace for purely domestic purposes would therefore be 132m², so would still exceed the minimum standard set out in the NDSS by a reasonable margin.
16. Local Plan Policy HS5 requires that new homes in the borough meet the minimum standards set out in the NDSS. The purpose of the policy is to ensure that new dwellings provide a reasonable level of internal space to carry out day to day activities. Whilst there are good planning reasons to treat rural workers dwellings differently from other forms of housing development, neither Policy HS5 or the SPD explain why the minimum standards contained in the NDSS should form an upper limit for such accommodation.
17. Notwithstanding that, I acknowledge the Council's concerns that, if it were too large, the property could become unaffordable for future rural workers. Should the existing farm operation go out of business or the dwelling no longer be required, there could be pressure to remove the occupancy condition which would be part of any planning permission. This could result in an open market property in a location where such development would be unacceptable under adopted planning policy.
18. It is therefore important to consider the scale of proposals for agricultural workers' dwellings, but in this case the proposed 3 bedroom house would not be overly large as a family home. As the principle dwelling on the site, it would not be excessive in relation to the established needs of the enterprise. The inclusion of a domestic garage in the scheme is not unreasonable, and although

fairly large, it would not be excessive in scale either. The submitted evidence shows that the cost of the accommodation could be funded through the business, and I have no evidence to suggest that a property of this size would be unaffordable for a rural worker.

19. Overall, I find that although the proposal would not fully comply with the SPD in terms of the NDSS, it would meet the requirements of paragraph 5.56 of the Local Plan.

Impact on the countryside

20. Criterion E of Policy HS9 requires compliance with other planning requirements, including the impact of the proposal on the countryside.
21. The surrounding area is agricultural in character with occasional farmsteads. The topography is gently undulating, with large fields divided by broken hedgerows and pockets of woodland. The major roads which pass nearby have an impact on the character of the area, but built development is sparse.
22. The proposed house would be located in a similar position to the existing mobile home, close to the access onto Scate Moor Lane. The lane is a narrow, single track road lined with hedgerows and occasional mature trees. The existing mobile home is not particularly noticeable from Scate Moor Lane, but the proposed new house would be larger in scale, with a greater footprint, and the detached garage would add to the extent of built form.
23. The proposed development would be visible in near views from Scate Moor Lane, but the buildings would be sufficiently set back so as not to appear prominent, and existing boundary trees and hedgerows would provide significant screening, particularly during the summer months. Where the development could be seen from the lane, views would largely be limited to the roofs and upper parts of the proposed house.
24. The rolling topography and surrounding vegetation would help screen longer views of the proposal. Aside from Scate Moor Lane, other public vantage points are a considerable distance away, to the extent that the proposal would not be readily discernible in the wider landscape.
25. The proposal would introduce built development which is uncharacteristic of this largely undeveloped, agricultural landscape. However, planning policies do allow for rural workers dwellings in the countryside, subject to the relevant tests being met. There is therefore an acceptance that some, very limited, housing can take place, which will inevitably have a degree of impact on the countryside. Whilst I note the Council's concerns about the scale of the proposal, the development would not be unduly noticeable or prominent from Scate Moor Lane or within the wider landscape. The visual impact of the development on the countryside would be acceptable, and there would be no conflict with the requirements of the Residential Design Guide 1999.
26. Taking account of all the above considerations, I find that the proposed agricultural dwelling is justified by the needs of the existing business at the site, having regard to policies which seek to restrict development in the countryside. Whilst it does not fully comply with the SPD in relation to the NDSS, I have found that the proposal is consistent with Policy HS9. By extension, it follows that the scheme also complies with Policy GS3.

27. I have found the impact on the countryside to be acceptable and have identified no conflict with Policy HP3 regarding local distinctiveness. Similarly, there is no conflict with the requirements to protect landscape character contained in Policy NE4, or with the contents of the Landscape Character Assessment for Hunsingore and Hopperton.

Conditions

28. A list of agreed conditions have been provided in the statement of common ground, which I have reviewed in light of the relevant guidance in section 4 of the Framework. I have made a number of minor wording changes to make the conditions more precise and succinct.
29. In addition to the standard implementation and plans conditions, a condition requiring a sample of materials to be used in the external walls and roof of the development is necessary to ensure a satisfactory appearance. In the interests of sustainable transport and to meet the requirements of Framework paragraph 112, a condition requiring the installation of an electric vehicle charging point is reasonable. I have altered the suggested condition slightly to avoid repetition.
30. Details of refuse storage and collection arrangements are necessary to safeguard the quality of the local environment and the living conditions of future occupiers. I have imposed the suggested condition which deals with this matter.
31. The Council has suggested a standard condition setting out requirements in the event that any contamination is found on the site. Whilst there is no recorded evidence of contamination, the site has been in agricultural use in the past, so contaminants could be present. Given the sensitivity of the proposed residential use, the suggested condition is reasonable to safeguard the local environment and the safety of future workers and occupiers. I have made minor wording changes to make the wording more precise.
32. In the interests of highway safety, I have imposed a condition requiring that the areas shown on the plans for parking and turning be kept available at all times, as suggested. I have deleted reference to the Town and Country Planning General Permitted or Special Development Order, which is unnecessary.
33. The Council has suggested a condition restricting permitted development rights. Advice contained in the Planning Practice Guidance¹ advises that such conditions may not pass the test of reasonableness or necessity, but in this case, it is important to ensure that the dwelling does not become enlarged to the extent that it would be unaffordable for a future rural worker. Restricting the ability to extend the dwelling without the need for planning permission is therefore justified in this case. Similarly, a restriction on the installation of rooflights or dormer windows, which could facilitate use of the loftspace for living accommodation, is also justified. The development already includes a reasonable size garage and store, so the restriction of further outbuildings, which could have the potential to significantly increase the value of the site, is also justified.
34. I have imposed the suggested condition, but have excluded reference to other external alterations, control over which would be unnecessarily restrictive.

¹ Paragraph 017 Reference ID: 21a-017-20190723

35. The proposed dwelling is intended as a rural workers' dwelling and is allowable in this location on that basis only. To reflect planning policies which restrict development in the countryside, it is necessary to restrict future occupation of the proposed dwelling to those employed in the locality in agriculture or forestry. I have imposed the suggested occupancy condition, with minor changes to update the wording.

Conclusion

36. I have found the proposal to comply with the development plan and the Framework. The appeal is therefore allowed, subject to the following conditions.

R Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - IP/MP/01 Location Plan
 - 05A Site plan as proposed
 - 01A Floor plans and section as proposed
 - 02A Elevations as proposed
 - 06P Garage plan and elevations as proposed.
- 3) Prior to their first use, samples of the materials to be used in the external walls and roofs of the development hereby permitted shall be made available on site for the inspection by and written approval of the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Prior to first occupation of the dwelling hereby permitted, a fully operational electric vehicle charging point shall be provided at the site. The charging point shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). The installed charging point shall be retained thereafter.
- 5) Prior to the first occupation of the dwelling hereby permitted, details of refuse storage arrangements and access for the collection of refuse shall be submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.
- 6) Any contamination that is found during the course of construction of the approved development 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 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. The local planning authority must be given two weeks written notification of commencement of the remediation works. The approved remediation and verification schemes shall be carried out before the development is resumed or continued.

- 7) The areas for access, turning and parking shown on drawing 05A 'Site Plan as Proposed' shall be kept available at all times for their intended purpose and for no other purpose.
- 8) 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 extensions, garages, outbuildings, roof or dormer windows shall be erected other than those expressly authorised by this permission.
- 9) 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, as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

APPEARANCES

For the appellant:

- Ian Pick (Agent)
- Matthew Blaken (Appellant)
- Tim Blaken (Appellant)

For the local planning authority:

- Arthama Lakhanpall
- Jillian Rann

Others/observers:

- Geoffrey Blaken (Appellant)
- Susan Blaken (Appellant)
- Waratsanan Ouysirikin (Appellant)
- Mr Sam Harrison (Agent)
- Caroline Armitage (Council)