
Appeal Decision

Hearing (Virtual) Held on 8 November 2022

Site visit made on 9 November 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/11/2022

Appeal Ref: APP/P1133/W/22/3299071

Land to the Southeast of the Old A38, Liverton, Devon. Easting:281488. Northing:73771.

- 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 Liam Forward against the decision of Teignbridge District Council.
 - The application Ref 21/02847/FUL, dated 12 December 2021, was refused by notice dated 24 February 2022.
 - The development proposed is to replace an agricultural barn with an agricultural and forestry worker's dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether there is an essential need for a rural worker's dwelling on the appeal site.

Reasons

3. The appeal site is located in open countryside, outside the defined settlement policy boundary, and to the south of the settlement of Liverton. Access is via a gated track leading off the Old A38 which runs south of, and parallel to, the Devon Expressway.
4. The site forms part of a wider parcel of agricultural land within the appellant's ownership. This comprises circa 18.5ha, which consists of undeveloped fields bounded by hedges and trees on rising land to the south and southeast of the existing buildings, as delineated by the blue boundary on the site location drawing ref 21/59/01.
5. The site vicinity is rural in character, and the holding is surrounded by mature trees and hedgerows, including notable areas of woodland to the north, between the old and new A38 roads, and to the northeast. There are further undeveloped fields to the west and south of the appellant's landholding.
6. The appeal site is occupied by a detached, single storey, timber clad barn with a pitched profile metal sheeting roof, which was approved as a haybarn in

- 2004¹. The building is currently occupied by the appellant and his family as a two-bedroomed, single storey dwelling, including a lounge/kitchen/diner and a bathroom, with an attached storage area adjacent to the living accommodation.
7. The appellant has confirmed that he purchased the landholding in 2017, when it had an equestrian use, and has been living there with his family since October 2018. During the Hearing, the Council confirmed that it considers the residence to be unlawful and that an Enforcement Notice has been served upon the appellant in this regard.
 8. There is also an L-shaped timber barn close to the existing dwelling, which is currently used as storage, and is conditioned² to be used for agricultural purposes in connection with the farming of adjoining farmland. An area of land adjacent to the existing dwelling is laid out as a parking area. There are no other permanent buildings on the site.
 9. The proposal is to replace the existing haybarn residence with a permanent two-bedroomed, pitched roof bungalow, in the same position, and to be occupied by the appellant and his family in connection with the running of an agricultural/forestry enterprise on the land.
 10. Policies S22 and WE9 of the *Teignbridge Local Plan 2013- 2033* (2014) (the Local Plan) set out the Council's strategy in respect of new housing outside the defined settlement limits of the designated 'strategic places' and an identified list of villages. Policy S22 relates to the countryside. Whilst emphasising restraint within the countryside in order to provide attractive, accessible and biodiverse landscapes and sustainable settlements, Policy S22 also allows some forms of development to support a resilient rural economy, including dwellings for agricultural, forestry and other necessary rural workers.
 11. Policy WE9 specifically relates to rural workers' dwellings, and is clear that dwellings for workers in agriculture, forestry or other rural businesses will be permitted in the open countryside subject to meeting a number of criteria. These include: (a) there is an essential functional need arising from the business for a full-time worker to be housed on the site, and, (b) the business unit is of sufficient size to require a full-time employee, is economically viable and has clear prospects of remaining so.
 12. These policies accord with the Local Plan strategy of focussing development at the most sustainable locations in the plan area, in accordance with Local Plan Policy S1.
 13. I find that these policies accord with the objectives of the *National Planning Policy Framework 2021* (the Framework) of supporting sustainable transport (Paragraph 105), conserving the natural environment (Paragraph 174), promoting a prosperous rural economy (Paragraphs 84 and 85) and restricting the development of isolated homes in the countryside (Paragraph 80).
 14. The Council's concerns are that, whilst in principle, the proposal accords with countryside uses permitted by Policy S22, the appellant has failed to satisfactorily demonstrate that the proposal would accord with the functional and viability requirements of criteria (a) and (b) of Policy WE9. I find these tests comprise relevant considerations against which to determine the

¹ Ref 04/03751/COU

² Ref 17/02478/FUL

proposal, having regard to guidance within Paragraph 80 of the Framework, which refers to 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, and advice within the National Planning Practice Guidance³ (PPG) in respect of assessing the need for isolated homes in the countryside for essential rural workers.

15. It is common practice for applicants for essential rural worker's dwellings to provide supporting evidence of functional need and business viability by means such as a business/agricultural appraisal, business accounts showing income and expenditure and/or profit and loss in recent years, and business plans forecasting future performance. I do not have any of these documents before me as part of this appeal.
16. I have noted the appellant's stated unawareness of the usage of such documents, and cited concerns that they were not included within the Council's planning application validation requirements, and were not sought by the Council prior to the determination of the application.
17. The procedure during the determination of the planning application is not a matter for consideration as part of this appeal. Moreover, the appellant could have provided additional supporting evidence with the appeal submission. For the avoidance of doubt, I have determined the appeal on the merits of the proposal, and having regard to the evidence currently before me, including the site planning history, the statements of case by both parties and my site inspection observations.
18. The appellant has sought to justify the presence of a full-time worker to live on site having regard to animal welfare, including providing supervision during birthing and attending to pregnant animals, deterring fox predation, and ensuring that livestock fencing remains in place and effective, having regard to incidents of damage due to factors such as bad weather and power cuts. The appellant also states that there is a requirement to provide security for the animals and expensive machinery and equipment that is stored on the site.
19. The livestock element of the existing business currently mainly comprises pig and sheep farming. The former consists of 10 breeding sows and a boar, with piglets being born at least twice-monthly, so that there are usually around 40 pigs on the site, with the weaners being reared for meat, which is supplied to local businesses. There are also currently 20 sheep, with yearly lambing taking place.
20. More recently, the appellant has acquired a herd of 11 deer, and intends to add a further 6 soon, with the intention of yearly deer breeding and associated venison and hind sales.
21. During the hearing the appellant confirmed that there are currently no cattle on the landholding, due to an existing unmet need for a building to accommodate them. In this respect, planning permission was refused in March 2022 for an additional agricultural barn within the landholding, to be sited to the southeast of the appeal site, and to be used for the housing of cattle. The refusal in part related to limited justification of an identified agricultural need for the building.

³ Paragraph: 010 Reference ID: 67-010-20190722

At the Hearing it was confirmed that a resubmission application⁴ is currently awaiting determination by the Council.

22. Having regard to the above, I find that there is evidence of a continued expansion of the livestock element of the business since the first introduction of livestock onto the site by the appellant in 2019. However, I find that the overall number of animals remains characteristic of that of a small-scale, embryonic farming business which is akin in size to that of hobby or leisure farming.
23. Moreover, the appellant has not provided a detailed business appraisal or business accounts to confirm that the existing business is of a sufficient size that would justify a full-time employee.
24. In the absence of the above, I am not persuaded that the existing livestock operation justifies an on-site 24-7 full-time worker presence all year round. Whilst appreciating the convenience of the appellant and his family residing on the site, on the basis of the evidence before me, I am not persuaded that the existing agricultural business could not be successfully operated with the appellant and his family living elsewhere off site, such as in nearby settlements like Liverton, which would be close enough to enable sufficiently quick access to the site in reaction to events requiring an on-site presence. Neither am I aware that such alternative accommodation is not available within a reasonable distance of the appeal site.
25. Also, I see no reason that the welfare and security of the animals could not be satisfactorily ensured by a day-time presence on site by the business employees, who comprise the appellant and his partner, as well as 5 other full-time equivalent non-resident members of staff, who are employed for 5-6 days a week to undertake jobs on the farm and for the company.
26. In addition to a day-time staff site presence, it seems reasonable that the provision of night care when required during key events, such as animal illness, pregnancy or birthing, or site supervision during periods of inclement weather, could be provided by means of temporary overnight facilities rather than through the provision of a new permanent dwelling. The appellant has cited the costs of such overnight staffing provision as potentially damaging to the viability of the business, but, in absence of detailed business accounts, I have no cogent evidence before me to support this view.
27. Neither am I satisfied, on the basis of the evidence provided, that sufficiently sophisticated and robust alarm systems do not exist that, in conjunction with the contribution to on-site security made by existing employees, would provide a reasonable level of protection for the livestock and any machinery and equipment directly associated with the agricultural operation on the site.
28. In addition to the above, the evidence before me is that livestock farming is not the full-time employment of the appellant, who is also an agricultural and forestry contractor and qualified tree surgeon. The existing business enterprise includes several other strands in addition to livestock production, including the storage and supply of logs, the production and supply of woodchip for fuelling biomass boilers, and the provision of a hedge laying, ground preparation, seeding, stock fencing and drainage service to other farmers.

⁴ Ref 22/01200/FUL

29. I am not persuaded, on the basis of the evidence before me, that the agricultural contracting and wood chip production and selling aspects of the business necessarily require a rural location, and that they could not be successfully carried out elsewhere within a settlement.
30. Moreover, the forestry element of the business appears to comprise a small element of the overall enterprise, with the wood for the logs and wood chips comprising a by-product of tree clearance works on the site and wood from other sites, rather than an on-site forestry enterprise involving wood sourced from the existing holding. As such, I do not find that these elements of the enterprise in themselves, justify a permanent rural worker's dwelling on the site.
31. I have no detailed business accounts before me to confirm the financial contributions made to the overall enterprise by the various elements of the business. However, having regard to the size of the livestock element of the enterprise, the overall number of employees within the business, and the notable amount of open storage of vehicles, machinery, equipment and materials currently stored on site in connection with the non-livestock elements of the business, I find that, in the absence of detailed evidence to the contrary, it is reasonable to assume that these elements of the enterprise make a significant contribution to its financial viability.
32. Moreover, whilst there is a high value attached to the machinery, equipment and materials that are currently stored on the site, since a large amount of the existing on-site storage does not appear to be directly related to the on-site livestock business, but rather to commercial activities that do not necessarily require a countryside location, its security requirements do not provide sufficient justification for the proposed rural workers' dwelling.
33. I accept that the wider holding to which the proposed dwelling would relate is partly used for agricultural purposes. I also acknowledge that it is currently convenient for the appellant and his family to live on site, and that this arrangement provides a desirable work-life balance for the appellant and his family having regard to the way the existing overall business enterprise is operating.
34. However, in the absence of robust and detailed evidence, such as a comprehensive business appraisal, business accounts and a business growth plan, and having regard to the mixed nature of the overall business enterprise, involving other commercial elements in addition to livestock farming, I am not persuaded that there is an existing rural enterprise of sufficient size to justify an essential functional need for a permanent dwelling on the site.
35. Neither am I satisfied that a rural enterprise is viable on the site, including taking account of the costs associated with the construction and future occupation of a permanent dwelling and the ongoing provision of staff salaries, and a sufficient income for the appellant. Moreover, there is no demonstrable evidence that the existing business is likely to endure for the foreseeable future, rather than ceasing and leaving behind a dwelling that would otherwise not have been approved.
36. For the above reasons, I therefore conclude that there is insufficient evidence before me to satisfactorily demonstrate that there is an essential need for a rural worker's dwelling on the appeal site. Accordingly, the proposal would not

accord with Local Plan Policies WE9 and S22, in so much as these policies aim to strictly manage new development in the countryside in the interests of providing attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy.

Other Matters

37. The Council has raised no objection to the appeal scheme in respect of matters including the design of the building, impact on neighbouring living conditions, highway safety and parking, drainage and biodiversity. These are requirements of the development in any case, and compliance in these respects does not justify or outweigh the significant harm that would arise from the proposal in respect of its unsuitable location.
38. I have given careful consideration to the appellant's family circumstances and desire to maintain a rural lifestyle. However, I am mindful of the advice contained in Planning Practice Guidance⁵ that, in general, planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the current personal circumstances cease to be material. For these reasons, I therefore find that this factor is not sufficient to outweigh the harm that would be caused contrary to the development plan and the Framework.
39. I acknowledge that no third-party objections have been received in respect of the appeal scheme. However, this does not affect my conclusions in respect of the main issue.
40. The council has confirmed that the existing converted haybarn dwelling does not meet the Nationally described space standards and is thermally inefficient. However, an improved standard of living accommodation for the occupants and the proposed incorporation of elements of sustainable design within the construction of the replacement building would not outweigh or justify the harm I have identified in respect of the location of the proposal.
41. Having regard to the wider sustainability objectives of the Framework, I have considered the accessibility of the appeal site to local services and community facilities by means of transport other than the private car, having regard to a combination of factors. These include the walking distances between the site and the nearest facilities and services at Liverton and Trago Mills, a requirement to access larger settlements further afield for a wider range of services and facilities, an irregularity of bus services providing transport between the site and these settlements and the fast speed limit, unlit and narrow paved nature of part of the Old A38 within the site vicinity.
42. Taking into account all of the above, I consider that, with the exception of the nearest primary school, it is reasonably likely that there would be a heavy dependence upon private car use by future occupiers of the proposed dwelling to access most required facilities and services, both in the nearest settlement of Liverton and further afield. As such, notwithstanding that the proposal has the potential to reduce work-associated car journeys, the harm I have identified in respect of the main issue is not justified or outweighed by accessibility considerations in respect of the appeal site.

Conclusion

⁵ Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'

43. The proposed development would conflict with the adopted development plan and the Framework, and there are no material considerations indicating a decision otherwise than in accordance with those Policies.

44. Therefore, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR

APPEARANCES:

For the appellant:

- Mr Liam Forward
- Ms Amy Wells

For the Local Planning Authority:

- Mr Artur Gugula - Planning Officer
- Ms Jennifer Joule – Senior Planning Officer
- Ms Lisa Edwards – Appeals Support Officer