
Appeal Decision

Hearing held on 13 December 2022

Site visit made on 13 December 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/P1133/W/21/3289654

1 Fosterville Cottage, Fosterville, Sandygate, Newton Abbot TQ12 3GP

- 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 Ron Easterbrook against the decision of Teignbridge District Council.
 - The application Ref 20/01108/FUL, dated 3 July 2020, was refused by notice dated 11 August 2021.
 - The development proposed is a rural workers dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site is owned by the appellant, who is the current Under Gamekeeper for a pheasant shoot (the shoot) which is held on the Ugbrooke Park Estate (The Estate). The 'rural business' is therefore the shoot, which is run by Alexander Clifford through his company, Ugbrooke Park Sporting (UPS). The Estate is owned separately by a family trust, called the Clifford Estate Company Ltd (The Trust). I turn to these matters as appropriate throughout my Decision.

Main Issue

3. The main issues are:
 - whether or not there is an essential functional need for a rural workers dwelling on The Estate;
 - whether or not there is alternative accommodation to fulfil the need, if found;
 - the economic viability of the 'rural business'; and,
 - the ability to tie the occupation of the proposed dwelling to the functional need, if found.

Reasons

4. As set out in Policy S22 of the Teignbridge Local Plan 2013-2033, adopted May 2014 (the LP), land outside defined settlement limits is open countryside for the purposes of planning policy. The appeal site is in open countryside by this

definition. In such locations, the policy seeks to strictly manage development apart from a number of exceptions, one of which is dwellings for agricultural, forestry and other necessary rural workers. The appeal proposal is for a rural workers dwelling and Policy WE9 of the LP relates to such dwellings.

Essential functional need

5. The appellant is the Under Gamekeeper for the shoot. He is one of two gamekeepers, the other being the Head Gamekeeper. There is one existing property, Fosterville Cottage, where both the head and under gamekeepers live, because they are father and son. The appeal proposal is to construct a further dwelling, so that the gamekeepers can have separate accommodation. It was confirmed to me at the hearing that a shoot of the size operated by UPS would normally have two, or perhaps even more, gamekeepers. I have no reason to dispute this and it was uncontested by the Council. I am therefore satisfied that there is a functional need arising from the shoot for, at least, two full-time gamekeepers and therefore also for there to be two dwellings for the gamekeepers, who would not necessarily be related.
6. The gamekeeper role is multi-faceted, for both gamekeepers. It includes looking after the birds, sowing and tending crops over approximately 100 acres, providing and maintaining suitable habitat for the birds, providing protection from predators, forestry, and other associated jobs. There are approximately 35 shoots per year (37 in 2021), in the period October to end-January. The gamekeepers also work on the shoots themselves, for example by breaking lines. The gamekeeper role, either head or under, is hands on, involves long and irregular working hours, the duties are throughout the year, and involve working in various locations throughout The Estate.
7. It would technically be possible for a gamekeeper to be housed away from The Estate, for example in Chudleigh, Ideford or Sandygate villages, all of which are nearby and have good road links to The Estate. However, these locations would be impractical for certain responsibilities, such as tending to the incubators and the dogs. I have considered whether or not other measures could be taken, such as alarms on incubators that are located away from the gamekeepers dwelling or, because the incubators only run in the spring, temporary accommodation being provided during that period. However, this would create an unacceptable level of inconvenience to the Under Gamekeeper. It is a reasonable expectation that accommodation be provided in a convenient location for a year round job, often at unsociable hours.
8. Overall, it is common ground, and I agree, that there is an essential functional need arising from the shoot for two gamekeepers to be housed on The Estate. The existing Fosterville Cottage provides the accommodation for the Head Gamekeeper. An additional dwelling is therefore required for the Under Gamekeeper and the proposal complies with Policy WE9 of the LP in this respect.

Alternative accommodation

9. The 'rural business' is the shoot but the shoot does not own any land or buildings. It rents the rights for the shoot and the land from The Trust, which own The Estate. However, there are long established links between the shoot and The Estate. In addition, the Under Gamekeeper's role involves working

throughout The Estate land. It is therefore reasonable to assess alternative dwellings on The Estate, even though it is owned by The Trust.

10. An alternative dwelling must fulfil certain criteria to be a suitable alternative. It must be relatively isolated because of the long and irregular working hours of the Under Gamekeeper and the potential for noise, particularly from the dogs. It must also either have a sufficiently sized garden to accommodate the incubator sheds for the birds in the spring, or at least some land nearby that could be used to house the incubators. This is because of the intensity of the monitoring required of the incubator sheds. It must also be able to accommodate dogs, which are regularly used in the gamekeeper's work, in kennels either within a garden or nearby. The rent must be subsidised because of the relatively low income of an Under Gamekeeper.
11. There are approximately 30 properties on The Estate. Two of these were described as potential alternative properties at the hearing. The first would likely be a suitable alternative but it is being rented out on a secure, long-term tenancy and is unlikely to become available for a long time. I have not been provided with details of the rental agreement but if this is the case, then it would not be a suitable alternative dwelling. The second is currently being rented out at full market rate, which would not be affordable to the Under Gamekeeper. However, I have not been provided with any evidence for why UPS could not rent this, or perhaps other dwellings on The Estate, from The Trust and provide it to the Under Gamekeeper at a subsidised rate.
12. I have not been provided with full details of the other dwellings on The Estate. It is likely that at least some of the existing buildings would be unsuitable, for example due to the nature of their current rental agreements or locations. However, without more detailed information, it is not possible for me to robustly assess if any of the buildings could meet the accommodation needs of the Under Gamekeeper. For example, I acknowledge that there is currently a 'no pets' policy for the dwellings on The Estate. However, it has not been explained why this policy could not be relaxed at least for some of the properties, given the importance of the Under Keeper's role to the operation of the shoot, and, in turn, the shoot's importance to The Estate.
13. It has therefore not been demonstrated that there are no alternative dwellings on The Estate that could meet the need for a dwelling for the Under Gamekeeper. In addition, although it was verbally stated at the hearing that no dwellings have been sold within the previous three years, no substantiated evidence has been provided in this regard. The proposal therefore fails to comply with Policy WE9 of the LP in this respect.

Economic viability of the 'rural business'

14. The shoot has been in operation on The Estate for 125 years and is well established. However, I have not been provided with any evidence of the financial health or general economic viability of the shoot. Therefore, despite the length of time that the shoot has been operating, it has not been demonstrated that the shoot is economically viable or that it has clear prospects of remaining so. The proposal therefore fails to comply with Policy WE9 of the LP in this respect.

Occupancy of the proposed dwelling

15. It would not only be necessary to restrict occupation to a person working in rural, agriculture or forestry in general, but also specifically to the Under Keeper for the shoot. Otherwise, it would not be a dwelling meeting an essential functional need to be housed on The Estate. In principle, restricting occupation in such a manner could be achieved by condition. However, the appeal site is owned by the appellant and not the 'rural business', or even The Trust. The appellant might change jobs. I acknowledge this is unlikely, allowing for his family connections to the gamekeeping business. However, it is a possibility and is something which the planning system cannot control. In that circumstance, a condition requiring that the appellant then vacate his own home would be unreasonable and likely unenforceable.
16. Therefore, in this scenario, the appellant would remain living in the dwelling. The dwelling would, therefore, no longer be providing an essential functional need arising from the rural business and it is highly unlikely that whatever new job the appellant had taken would require him to be located on The Estate, even if it were still rural, agricultural or forestry work in the local area. It would also likely lead to pressure to provide another dwelling for the new Under Gamekeeper.
17. An alternative would be to control the disposal of the dwelling through a s106 agreement, so that it must be sold by the appellant if he were to stop being the Under Gamekeeper, and that it only be sold either to UPS or The Trust, and then remain in perpetuity as a dwelling to be used by an Under Gamekeeper. However, no such s106 agreement is before me and, even if it were, then it would need to be carefully reviewed to understand if this type of arrangement were acceptable, both in planning terms and also to the appellant given his ownership of the appeal site land.
18. A suitable mechanism to tie the occupancy of the proposed dwelling to the Under Gamekeeper role has not therefore been secured. In the absence of such a mechanism, it cannot be ensured that the proposal would meet the essential functional needs of the 'rural business' in the long term. It therefore fails to comply with Policy WE9 of the LP in this respect.

Overall

19. There is a functional need for a dwelling for an Under Gamekeeper on The Estate. However, it has not been demonstrated that alternative dwellings do not exist on The Estate or have been sold in the previous three years. It has also not been demonstrated that the shoot, which is the 'rural business', is financially viable and has clear prospects of remaining so. In addition, the appellant owns the appeal site land. In this circumstance, no condition could reasonably tie the occupancy of the proposed dwelling to the role of the Under Gamekeeper. There is also no 106 agreement before me that would successfully control disposal of the property so that it remain as accommodation for the Under Gamekeeper. Consequently, the proposal fails to comply with Policies S22 and WE9 of the LP.

Other Matters

20. My attention has been drawn to two recent planning permissions for larger development in the countryside, nearby to the appeal site. The first,

Ref 19/00566/MAJ, is for a scaffolding yard and was permitted in relation to Policy EC3 of the LP relating to rural employment sites. The second, Ref 21/00533/MAJ, is for an industrial building complex on an allocated site. Neither permission is for development similar to the appeal proposal. They are for larger development in the countryside but they are of a different nature and were assessed against different planning policies. I have not, therefore, considered them further.

21. A number of letters of support have been submitted. They praise the design of the proposed house, support the location nearby to existing buildings rather than in more open countryside, support the appellant as a local person who has a positive impact on the local area, and highlight the two recent planning permissions for larger development nearby to the appeal site. In response, the design of the proposal is not in dispute. Nor is the location nearby to existing buildings. I have set out my position on the two recent planning permissions above. I sympathise with the appellant and his aspirations. Having met him at the hearing, I have no doubt that he makes a positive contribution to his local community. However, I must assess the proposal against the Development Plan, which I have done so in this Decision.

Conclusion

22. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward
INSPECTOR

ANNEX: APPEARANCES

FOR THE APPELLANT:

Ron Easterbrook	Appellant
Matt Stevenson	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Jennifer Joule MRTPI	Senior Planning Officer, Teignbridge District Council (TDC)
Artur Gugula	Planning Officer, TDC