



Appeal Decision

Hearing Held on 23 May 2023

Site visit made on 23 May 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/F9498/W/22/3290387

Little Acres, Brendon Hill, Watchet TA23 0LG

- 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 Steven Marsh against the decision of Exmoor National Park Authority.
 - The application Ref 6/35/21/102, dated 29 April 2021, was refused by notice dated 20 December 2021.
 - The development proposed is establishment of rare breed poultry farm and horticultural business involving temporary siting of caravan and erection of 2 no. polytunnels and 3 no. buildings (including chicken brooder house, vegetable handling facility, and storage and workshop barn), together with installation of solar panels and construction of 2 no. dew ponds.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I was advised at the hearing that a caravan previously sited on the land for residential purposes had since been removed. Other works which have already been undertaken, including the widening of the highway access and laying of additional hardsurfacing, have been considered as forming part of the appeal.
3. Despite the absence of a signed statement of common ground, following determination of an application for a similar proposal in the intervening period, the parties agreed that the biodiversity issues described in the fourth reason for refusal were no longer in dispute. Given that planning conditions could address any residual effects, I have not treated this as a main issue.
4. The *Little Acres Business Plan* (March 2021) and related comments of the Authority's consultant were made available to me at the hearing with commercially sensitive information redacted in versions made available to other attendees. Whilst I have had to consider these documents, they do not substantively alter the nature of the proposal as outlined in previously publicised documents such that doing so has prejudiced any interested parties.
5. The Appellant indicated at the hearing that the residential caravan was the only element proposed on a temporary basis and that permanent permission was sought for the buildings and structures associated with the enterprise. This was not clear from the submissions, particularly as the justification for the caravan is premised on the inability to operate the enterprise without such in place. As

such, I have not sought to disaggregate the caravan from the other elements and have considered the scheme as a whole to avoid prejudice to other parties.

Main Issues

6. The main issues are:

- whether a temporary residential use of land in the countryside would be justified in connection with a rural business having regard to local and national policies in relation to such;
- the effects of the proposal on the character and appearance of the area, including on the Exmoor National Park landscape; and
- the effects of the proposal on highway safety.

Reasons

Principle of development

7. The appeal site lies in the open countryside in Exmoor National Park, some approximate 1.1km from the hamlet of Treborough and around 3.2km from the village of Roadwater which contains basic facilities including a shop. The site is also around 11 km by road from the closest larger settlement of Washford. It comprises around 1.5 hectares of pastureland on an elevated slope above a steep wooded valley. The unclassified road that provides access to the site runs adjacent to the eastern hedgerow and links the nearby B3244 to Treborough.
8. In terms of the policy context, the adopted development plan for the area includes the *Exmoor National Park Local Plan 2011-2031* (adopted 2017) (Local Plan). Policy HC-S1 states that housing may be permitted where it addresses an identified local housing need for a rural worker in agriculture, forestry or other rural land-based enterprise with a proven essential, functional need in accordance with Policy HC-D9. Policy HC-D9 provides for dwellings in the open countryside to meet the proven needs of rural workers through the provision of temporary residential caravans (subject to Policy HC-D11) where no existing dwellings or buildings can be subdivided or converted etc.
9. Policy HC-D11 stipulates that in order for the essential need for a rural worker to be met, there must be, amongst other things, a clear intention to develop the land-based business and a lack of other dwellings on site or in the local area that could meet the functional need. Annex 2 of the Local Plan relates to rural worker dwellings and provides clarity on the tests of functional need and soundness of the financial basis on which the business has been planned.
10. Further clarity on the application of the key functional and financial tests as required by Local Plan Policies HC-D9 and HC-D11 is also found in the *Rural Worker and Succession Farm Dwellings Guidance Supplementary Planning Document* (2020) (SPD). It explains that the 'essential need' for a rural worker dwelling may exist where at least 1 or more full time rural workers are required to be readily available on site, day and night throughout the year.
11. The SPD also explains that the financial test will take account of the level of profitability of an enterprise and whether the operation is viable and has a clear prospect of remaining so, whilst supporting a full-time worker and the dwelling itself. The SPD sets out that a business appraisal should be submitted to set out how the enterprise meets the functional and financial tests, and that the

Authority may seek expert assistance from a qualified consultant prior to determining any application containing one.

12. The approach outlined in the development plan is consistent with Paragraph 80 of the National Planning Policy Framework (the Framework) which seeks to avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live at or near their place of work.
13. Various documents submitted by the Appellant explain that the business would have two main work elements and income streams: the rare breed poultry arm and the horticultural element involving the production of specified crops, i.e., chard, kale and spinach, within efficient vertical arrangements within the proposed polytunnels. The Appellant explains that the enterprise would be more resource intensive than its scale may otherwise suggest as it will avoid a reliance on fossil fuels and agro-chemicals and involve the use of hand tools rather than machinery etc, i.e., and off-grid, low impact, sustainable enterprise. The site has no mains water or mains electricity and would be limited by its capacity to generate and store solar energy. This would inhibit the ability to rely on efficient modern technologies that make use of such, i.e., tilt-and-turn incubators for egg production. Other manual processes that would be required would include checking the ventilation levels in the polytunnels, turning growing towers, adjusting pressurised watering systems and timers, turning eggs, moving coops/aviaries for the individually kept rare breed chickens and other animal husbandry tasks. A willow crop would also be planned to generate an income in future years, as would other fruit crops that the Appellant has planted or intends to in future.
14. The Authority's consultant commented on the submitted *Planning Statement* in June 2021 and provided an Addendum in November 2021 based on the *Management Plan* and *Little Acres Business Plan*. It was clarified at the hearing that all submitted documentation had been provided to the consultant, unredacted, to enable a fully informed assessment to be made.
15. The response from June 2021 indicates that using the '*The Agricultural Budget and Costing Book*' (ABC) May 2021 92nd Edition', the labour requirement calculation methods using figures published by the Farm Business Survey (FBS) and professional judgement, the Year 3 labour requirement for the total enterprise would be 0.18 Labour Units. The horticultural element was considered to form part of this labour demand, particularly in the start-up phase, with some labour required to plant, tend, harvest and sell the crops. However, the labour demands were expected to arise during normal working hours, with the exception of letting the poultry out and shutting them up in the morning/evening during the longer summer months. The November 2021 response indicated that the cumulative functional needs of the holding were still considered to fall far short of translating into an essential need to live on site to be readily available day and night.
16. From the Appellant's Statement and evidence presented to me at the hearing, even taking account of climatic factors, intermittent signal issues and security risks, supervision of youngstock and potential risks of failure, I am of the view that an essential functional need to live on the site has not been demonstrated. There appears little evidence that a worker would need to be on site at all times of the day and night and my estimation of the sum of the activities

involved would not translate to a full-time position, even if there would be some fluctuation throughout the seasons.

17. From responses on behalf of the Authority, the view is that the financial security of the business would be marginal, and it would be several years before it could even get to such a position. Though the investment into the purchase of the site has been acknowledged, the other purchases yet to be made for infrastructure do not appear to be capable of being supported by the enterprise. There is nothing in the Appellant's Statement or offered to me at the hearing that would lead me to a robustly based alternative conclusion. Even taking into account the Appellant's willingness to accept a lower than typical income, it is my view that the business has not been planned on a sound financial basis.
18. The Appellant indicates that there is currently a lack of alternative housing available in reasonable proximity of the site that would be within the financial reach of the Appellant. My finding based on the submitted evidence is also that there are no other suitable alternatives in the local area at the present time.
19. However, my overall finding is that a temporary residential use of land in the countryside would not be justified in connection with the rural business proposals outlined having regard to, in particular, Policies HC-S1, HC-D9 and HC-D11 of the Local Plan. For similar reasons, the proposal would fail to accord with the policies of the Framework and guidance within the Farm Dwelling SPD.

Landscape and visual effects

20. Consistent with the Framework's aspiration for National Parks to be given the highest status of protection for their landscape and scenic beauty, the Local Plan contains Policies GP1, CE-S1, CE-S6, SE-S4 and CE-D1 which, amongst other things, seek to ensure that the high quality diverse and distinct landscapes and seascapes of Exmoor National Park are conserved and enhanced. For agricultural and forestry development, Policy SE-S4 seeks to co-locate new buildings physically and functionally to other buildings associated with the business and avoid new isolated buildings unless it can be demonstrated that there is an overriding functional need for such a location.
21. The landscape in the vicinity of the site is a mix of pastureland over rolling hills and plateaus, deeply incised valleys with conifer plantations, narrow winding roads enclosed by substantial hedges connecting small hamlets and more isolated farmsteads. The farming enterprises that predominate in the area involve cattle and sheep production which has influenced the scale of fields and farm buildings, though equestrian uses and paraphernalia are also common.
22. As a start-up venture on the single site owned by the Appellant, the proposal would be in an isolated location away from other buildings. The proposal has involved the widening of a gateway and laying of hardstanding to facilitate parking and access. Some degree of further trimming of the roadside hedge may also be required to ensure the access is sufficiently safe for the speed of vehicles along the unclassified road. The proposal would also involve the stationing of a caravan and solar array, construction of two adjoining polytunnels and the provision of three timber buildings of no more than 2.5 metres in height. Not specified in the plans but inferred in the proposal is a number of smaller coop structures, aviaries and other associated enclosures that would be needed to house the birds and rotate them regularly.

23. Despite their individually modest scales, the number and spread of structures, on the linear, small scale, sloping holding would result in the site having a cluttered appearance, incongruous with the generally unspoilt character of the landscape. Though much of the visual effect of the proposal would be screened from the adjoining unclassified road by the established hedgerow, the widened gateway would allow views into the site. However, a short distance away to the south, there is a bend in the same road from where the site is viewed on a slope facing towards the viewer. There is also a view from a field gateway along the B3224 to the south which is from a point higher in the landscape and from where views could not be readily screened. The cluttered appearance and incongruity of the proposal within its landscape context would be apparent in these views.
24. The Appellant indicates that the removal of a large number of trees from the nearby conifer plantation has opened up the views towards the site since it was purchased. It is also stated that the viewpoint in the gateway of the B3224 is unlikely to receive a high number of receptors as it is on a busy road, absent of footways and that the views from the unclassified road are so fleeting when driving along it so as to be of relatively inconsequential effect. Photographs provided by the Appellant from local viewpoints and depicting other buildings visible in the landscape attempt to show that the proposal would be in keeping with other buildings visible in the surroundings.
25. It is inevitable that rural land-based enterprises within a working landscape will influence changes and visible built features. However, the cluttering effects of the proposal would not be in keeping with the surroundings and measures such as providing cladding to the caravan or alternative arrangements of the structures would not sufficiently mitigate the harms. Though additional landscaping could offer some screening, I have limited details of such that allow me to be certain of the timeframe for its establishment or its ability to do so in a manner compatible with the landscape character.
26. For the reasons outlined, the proposal would harm the character and appearance of the area and fail to conserve the scenic beauty of this part of the Exmoor National Park landscape. It therefore fails to accord with, in particular, Local Plan Policies GP1, CE-S1, CE-S6, SE-S4 and CE-D1.

Highway matters

27. The site access is from an unclassified road which leads from the B3224 a short distance away. The local road network, including the unclassified road, is regularly used by farm and other vehicles, and despite its relatively narrow width, it has passing places at regular intervals along its length. It appears that the field gate that previously existed is now a double-width gate with roughly laid hardsurfacing for parking.
28. During the course of consideration of the original application, the Highways Officer requested various information including details about the type and volume of traffic that would be generated by the proposal, scaled drawings of the access, including its visibility splay and parking and turning layout. The speeds of traffic on the unclassified road led to a request for visibility splays of 43 metres in each direction from the centre point of the access, 2.4 metres back from the carriageway edge. Other details about the consolidation of the surface of the first 5 metres of the access, position of the gates 5 metres from the carriageway edge and means of drainage were also required.

29. Further information provided by the Appellant indicated that the proposal would generate vehicular movements, but that they would be low in volume with approximately 1 vehicle per day for produce deliveries and in the order of 1 to 3 vehicles per day for poultry collections on a seasonal basis. In addition to this, the Appellant indicates that the business would make use of one vehicle and the family another, although it was asserted that the lifestyle he and his family lead would be less dependent on vehicles through avoidance of a commute to work, food production on site, walking to the local shop and an absence of a need to make repeated trips to schools through home-schooling.
30. Despite some clarity about the anticipated number of vehicular movements, the other requested information about the extent of the visibility splays, parking arrangements and such like have not been provided.
31. It was suggested that the necessary highway related measures could be secured by planning conditions, and it was agreed that this would ensure a satisfactory outcome in most respects with the exception of the visibility splays. Whilst safe visibility splays could be provided, the extent of further alteration to the hedgerow to achieve such is unclear and would potentially increase the harm to the character and appearance of the area, further opening views into the site. However, in purely highway safety respects, the matter could be addressed by way of planning condition.
32. Thus, subject to planning conditions, the proposal would not result in prejudicial effects on highway safety and does not conflict with Local Plan Policy AC-D2. This Policy seeks to prevent development from generating unacceptable levels of traffic or prejudicial effects on road safety.

Other Matters

33. I note the Appellant's belief that the concerns raised in connection with an unwelcome precedent have detracted from the assessment of the proposal. However, I have considered the specific merits of the case as detailed in the written and oral evidence in the context of the development plan and other relevant considerations.

Planning balance

34. A temporary residential use of land would not be justified in connection with a rural business in the countryside and the proposal would harm the character and appearance of the area, failing to conserve the National Park. Consequently, the appeal scheme is in conflict with the development plan, when considered as a whole.
35. The public benefits of the scheme would result from the boost to the economy from the creation of a new rural business and, in turn, by the reliance of the business and family on other local businesses, at least for a temporary period. These benefits attract moderate weight in favour of the scheme.
36. The Appellant seeks to differentiate the proposal from a traditional farming enterprise and for it to be taken as a more holistic, sustainable and environmentally sensitive proposal. I acknowledge that the way of life sought by the Appellant and the ethos of his business would involve genuine commitment and considerable efforts. I also note the Appellant's family circumstances and that the proposal would support the wellbeing of all family members in the longer term. There would therefore be some modest social

benefits from the scheme for at least this reason and limited environmental benefits through the enhancement of the biodiversity value of the site and local area.

37. However, in my opinion, the sum of the public benefits does not outweigh the identified harms or represent a consideration of such materiality that dictate a decision should be taken other than in accordance with the development plan. There are no other considerations, including the policies of the Framework, that otherwise provide a reason to depart from the development plan.

Conclusion

38. For the reasons outlined above, and having regard to all other matters, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Steven Marsh

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Dean Kinsella

Principal Planning Officer

Ms Sally-Ann Bloomfield

Landsense Professional Ltd

INTERESTED PARTIES:

Mr Peter Jobin

Local resident

Mr Simon White

Local resident

Mr R Wight

Local resident

DOCUMENTS SUBMITTED

Document 1

Landsense Professional Appraisal
Addendum, dated November 2021

Documents 2 & 3

Little Acres Business Plan, dated
March 2021 (unredacted and redacted
versions)