



Appeal Decision

Hearing held on 21 June 2023

Site visit made on 21 June 2023

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2023

Appeal Ref: APP/H1705/W/22/3313211

Land at Frog Lane, Little London, Tadley, Hampshire, RG26 5EN

- 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 Q. Jacobs against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 21/02094/FUL, dated 21 June 2021, was refused by notice dated 27 July 2022.
 - The development proposed is erection of a permanent agricultural worker's dwelling and associated structures.
-

Decision

1. The appeal is allowed, and planning permission is granted for erection of a permanent agricultural worker's dwelling and associated structures at land at Frog Lane, Little London, Tadley, Hampshire RG26 5EN in accordance with the terms of the application, Ref 21/02094/FUL, dated 21 June 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - (a) whether the proposal satisfies national and local planning policy requirements to demonstrate the essential need for an agricultural worker's dwelling, and
 - (b) the effect of the proposal on the rural landscape character of the surrounding area.

Reasons

Essential Need

3. The proposal is for a dwelling within part of a field owned by the appellant and adjacent to another field where the appellant has erected a barn and lean-to extension as part of his farming business. The reason for the proposal is that the appellant suspects that he will have to vacate his present farmhouse at Green Farm, a few miles away, and relocate the business to Frog Lane. His tenancy at Green Farm expires on 28 September 2026. The landlord, Wellington Estates, has written letters to the appellant in October 2021 and March 2023 informing of an intention to end the tenancy and to provide formal notice to quit between 12 and 24 months of the end date in accordance with the terms of the tenancy.

4. The Council is concerned to avoid proliferation of new isolated homes in the countryside and contends that the essential need for the new dwelling has not been demonstrated as the farmhouse at Green Farm continues to be available; furthermore, that until there is a formal notice to quit uncertainty remains on whether the tenancy at Green Farm could yet be extended.
5. Policy SS6 of the Basingstoke and Deane Local Plan (2016) (BDLP) sets out exceptions to the provision of new housing in the countryside. At SS6(f) the policy enables provision of a dwelling linked to an existing agricultural business where it can be shown that:
 - xii) *"There is an essential need for the occupant to be on site at any time during any 24 hour period; and*
 - xiii) *No alternative suitable accommodation is available in the locality; and*
 - xiv) *The rural business linked to the proposed new building must have been viable for the previous three years."*
6. Paragraph 80(a) to the National Planning Policy Framework (the Framework) sets out the following exception to the development of isolated homes in the countryside: *"There is 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 in the countryside"*. Planning Practice Guidance in helping to apply Paragraph 80(a) sets out 3 tests similar to those at Policy SS6(f). These are proven 24-hours a day proximity to the business, continued viability and an essential need for the additional dwelling (that no alternative is available)¹.
7. The Council accepts that the appellant's cattle business requires 24-hours a day proximity of dwelling-place to the enterprise in relation to the care of vulnerable calves and other animal welfare considerations. The appellant is the third-generation farmer for the business, indicating long-term viability. Whilst data examined during the appeal process revealed a one-year blip, apparently in relation to external factors (mainly the Covid pandemic and escalating prices due to the war in Ukraine), the latest data demonstrates a continued viability for the business. Therefore, the only remaining issue on the policy tests is the availability of alternative accommodation, either at Green Farm or elsewhere.
8. The landlord's letters of intent to end the tenancy do not constitute a formal notice to quit. The appellant's evidence in relation to the cessation of other land parcels at Green Farm is that the landlord is unlikely to provide more than the minimum of 12 months' notice of termination and that this would not provide sufficient time to gain permission for an alternative dwelling and to complete it. Furthermore, that the farmhouse at Green Farm is likely to be disposed of independently from farmland as it does not have the protection of an agricultural occupancy planning condition. The appellant contends provision of the replacement dwelling at Frog Lane could take approximately 2 years from obtaining permission through obtaining finance, arranging a builder, procuring materials and completing a fit out ready for occupation and that this would have to be done concurrently with ongoing running of the farm business.
9. A further consideration is the readiness of the business to relocate to Frog Lane. The Council has expressed scepticism that facilities in the adjacent field would be sufficient, especially if the number of cattle were to increase as

¹ Planning Practice Guidance Paragraph: 010 Reference ID: 67-010-20190722

- intended and points out there are no other permissions in place to expand facilities. The appellant contends that the present barn and lean-to would be adequate. Also, that an application had just been made under Part 6 of the General Permitted Development Order for a building to store machinery and hay next to the barn and that this would create capacity within the barn itself.
10. The appellant comments that the livestock business operates on a 3-year cycle from insemination to calving 9 months later and the raising of 'followers' for 30 months before being sold on the open market. As the appellant has operated a 'closed herd' which has been disease free for some time, he would be reluctant to sell cattle and buy others later to assist in business relocation. As such, the relocation of the livestock business ought to be planned over the regular 3-year cycle.
 11. My findings, having regard to the nature of the appellant's livestock business, present and planned facilities at Frog Lane, to the likely timescales involved in completing an alternative dwelling at Frog Lane to supervise the business, and the letters of intent to terminate the tenancy at Green Farm, are that it would be unreasonable to wait until issue of a formal notice to quit before granting planning permission for a dwelling at Frog Lane, should there be no other existing building available from which to supervise the business. Whilst there would be risks that the landlord could have a change of mind, that the farmhouse at Green Farm could continue to be available and that an additional dwelling at Green Farm would not then be "*essential*" for the business, on the balance of probabilities, I consider this to be unlikely.
 12. But even if the proposed additional dwelling were to be built and proved to be not required for the business, it would be possible to attach conditions to a planning permission to preclude the dwelling becoming a new general purpose isolated home in the countryside contrary to Policy SS6. Condition 14 in the list of agreed conditions in the Statement of Common Ground would limit occupation to "*a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants*". This potentially could enable the dwelling to be occupied in association with an alternative agricultural business in the unlikely event that it would not be required by the appellant.
 13. Suggested condition 15 would require the dwelling to be removed and the land restored to its previous condition if the dwelling ceases to be occupied for agricultural purposes. The two conditions would provide additional safeguards to ensure that the dwelling would only be occupied as intended and in accordance with planning policies for new homes in the countryside.
 14. Both parties have conducted searches of the local housing market to ascertain if there is or is likely to be an existing dwelling which could provide necessary accommodation as an alternative to that proposed at Frog Lane. There is no dwelling on the market that would be close enough to facilities at Frog Lane to provide the essential 24-hour a day supervision. Properties that have become available in the wider area have generally been unaffordable and not close enough to the site. I acknowledge that the need for a dwelling would only arise when young and vulnerable livestock are located at Frog Lane; those presently at the site are older and not needing 24-hour a day supervision. Nonetheless, present and recent market conditions are a likely indication of the market in the near future when the tenancy at Green Farm would likely be terminated.

15. If permission had been granted to the appeal application shortly following its submission, the standard three year period in which to commence work would have expired in 2024, before the likely issue date of the notice to quit. Some two years on from that time, with the intention to terminate the Green Farm tenancy reaffirmed and the expiry date of tenancy in 2026 closer, greater weight should be afforded to the probability that an alternative dwelling to the Green Farm farmhouse will be required. Given the timescales involved in planning for the full relocation of the business to Frog Lane and to implement a permission for a new dwelling ready for supervision of livestock there, it is my judgement that it would be reasonable to grant planning permission at this time with appropriate conditions to safeguard the use of the dwelling to preclude inappropriate occupation.
16. My conclusion on the first main issue is that the proposal satisfies national and local planning policy requirements in demonstrating the essential need for an agricultural worker's dwelling at Frog Lane. The proposal would thereby accord with the requirements of Policy SS6(f) and with national planning policies for new dwellings in the countryside.

Landscape Character

17. The proposal is for two buildings, a 3-bedroom detached house and a garage / store to be erected within a curtilage formed at the western end of an open pasture field served by an existing vehicular access to the southern side of Frog Lane. The surrounding area is open countryside, mainly agricultural fields bound by trees and hedgerows. There are scattered dwellings further to the east and west along Frog Lane, but the proposal would be in a relatively isolated position. From the appeal site there are clear views of agricultural buildings at Frog Lane Farm to the west and the appellant's barn to the east.
18. The buildings would be set back from a line of trees and shrubs along the Frog Lane frontage which would largely screen the development from passing motorists and pedestrians. The buildings would be seen more readily from a public right of way footpath on a field edge to the south-east, but it would be possible to better assimilate them into the landscape with additional planting to the existing field boundary to the south and along the newly formed eastern boundary to the curtilage.
19. The detailed design of the buildings would be broadly in keeping with that of other dwellings in the area. The Council's objection on landscape grounds relate mainly to the principle of an additional dwelling here rather than to details of its siting and design. In my judgement, the principle of an additional dwelling can now be accepted in relation to the first main issue. The location of the dwelling on this site in Frog Lane would broadly follow the established pattern of scattered dwellings in open countryside. Planning conditions could be used to secure the use of appropriate materials and landscape measures to promote a beneficial impact on the local landscape under these circumstances.
20. As such, the effect of the proposal on the rural character of the area would be acceptable and there would not be any significant conflict with Policy EM1 of the BDLP which requires development to respect landscape character. Neither would there be conflict with the Design and Sustainability SPD (2018), or the Landscape, Biodiversity and Trees SPD (2018) in relation to landscape issues or with sections 12 and 15 of the Framework on achieving well-designed places and conserving and enhancing the natural environment.

Planning balance

21. The Council can currently demonstrate only 4.2 years in relation to their housing land supply, according to their latest figures. As this is below the target of 5 years' supply, the presumption of sustainable development at Paragraph 11(d) of the Framework is triggered and additional weight applied to the provision of new housing. The proposal is just for one dwelling which in my judgement accords with local and national planning policies for the provision of an additional agricultural worker's dwelling. As such, the housing land supply position has attracted little weight in the overall planning balance.
22. Whilst the farmhouse at Green Farm is still currently available for the appellant in association with his farming enterprise, from the evidence available to me it seems that it is unlikely to remain so for much longer. The weight to be attached to the dwelling at Green Farm's continued availability therefore must be reduced and the balance lies in granting planning permission at this stage to assist in the orderly transfer of the business with a dwelling to a new location.

Conditions

23. The standard condition allowing 3 years for commencement of development should be sufficient for planning for the relocation of the business in relation to the tenancy end date at Green Farm. A condition is needed to list the approved plans for the avoidance of doubt and in the interest of proper planning. To safeguard the visual amenities of the area conditions are necessary to approve external materials for the buildings, hard landscaped areas, soft landscape measures and details of enclosures to the curtilage. A condition is necessary to ensure the provision and retention of sufficient parking and turning space on site in view of the absence of parking opportunity in Frog Lane.
24. I do not consider the Council's suggested conditions to control the hours of building operations on site or for vehicle movements to or from the site to be necessary. The reason provided for the conditions is to protect the amenities of occupiers of nearby dwellings, but the nearest dwellings are not close to the site. The conditions would be more suited to an urban residential area, but this is a rural location with farming activities commencing before the 0730 start time specified in the conditions.
25. Neither do I consider most classes listed in the suggested condition to limit permitted development allowances to be necessary. National planning guidance is not to unduly restrict these general allowances. The proposed house would not be unduly large and restrictions for extensions, roof alterations, a porch and hard surfaces would fail the test of reasonableness. However, it would be appropriate to control outbuildings permitted by Class E in view of the large size of the curtilage and the cumulative effect of large or scattered outbuildings on the landscape character of the area. The restriction suggested to Class AA is unnecessary as this relates to a dwelling built before 28th October 2018.
26. An agricultural occupancy condition is necessary to preclude the dwelling being used for general housing purposes, contrary to planning policies limiting new isolated dwellings in the countryside and to accord with the terms of the proposal. I have amended the terms and timescales for the condition drafted in the Statement of Common Ground requiring removal of the dwelling should it not be used in accordance with the agricultural occupancy condition; the changes reflect the discussion at the hearing.

27. The Council's suggested condition on water efficiency is necessary in the interests of sustainability. The precautionary condition on contamination and remediation is necessary to mitigate adverse environmental impacts should contamination be found. Finally, the suggested conditions on the Preliminary Ecological Appraisal and biodiversity enhancement are necessary to promote provision and retention of appropriate habitats.

Conclusion

28. The proposal satisfies national and local planning policy requirements to demonstrate the essential need for an agricultural worker's dwelling and, subject to appropriate conditions, would not have an adverse effect on the rural landscape character of the surrounding area. For the reasons given above I conclude that the appeal should be allowed.

Rory MacLeod

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Lindsay Goodyear Planning Consultant, Bell Cornwall LLP

Robert Wytchard Reading Agricultural Consultants

Quentin Jacobs Appellant, Green Farm, Folly Lane, Bramley RG26 5BB

Rachel Connor Green Farm, Folly Lane, Bramley RG26 5BB

FOR THE LOCAL PLANNING AUTHORITY:

Jemma Cox Principal Planning Officer Basingstoke and Deane Borough Council

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:
 - QJ/Plans/01 Proposed Plans and Elevations (dated June 2021)
 - QJ/Plans/10 Site Plan (dated June 2021)
 - QJ/Plans/11 Site Location Plan (dated June 2021)
3. No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

4. Notwithstanding the approved plans, no hard landscaping works shall commence on site until details of the materials to be used for hard and paved surfacing have been submitted to and approved in writing by the local planning authority. The approved surfacing shall be completed before the adjoining buildings are first occupied and thereafter shall be maintained in accordance with the details so approved.
5. No development shall commence above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land and adjacent to the site boundaries, identify those to be retained and set out measures for their protection throughout the course of development. The scheme shall also specify species, planting sizes, spacing and numbers of trees/shrubs to be planted.
6. The approved details shall be carried out in the first planting and seeding seasons following first occupation of the buildings or the completion of the development, whichever is the sooner. In addition, a maintenance programme detailing all operations to be carried out to allow successful establishment of planting, shall be submitted to and approved in writing by the local planning authority before commencement of the landscaping works. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. Notwithstanding the approved plans, no development shall commence above slab level until a plan indicating the position, design and materials of enclosures such as screen walls, fences, gates, hedges to be erected or planted, shall have been submitted to and approved in writing by the local planning authority. The approved enclosures shall be erected or planted before the dwelling hereby approved is first occupied. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, details of which shall be agreed in writing by the local planning authority before replacement occurs.
8. Prior to occupation of the dwelling hereby approved, the garage and turning area shall be constructed in accordance with details shown on the approved drawings and shall be retained thereafter for parking purposes.
9. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class E of Schedule 2 of the Order shall be erected on the application site.
10. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
11. If the agricultural worker's dwelling hereby permitted ceases to be occupied in relation to the use of an agricultural holding or by a widow or widower or surviving civil partner of such a person, or by any resident dependants, the dwelling shall be vacated and removed within 3 months of the cessation of the lawful use. Details of a land restoration scheme and a timetable for its implementation shall be submitted to and agreed in writing with the local planning authority. The land shall then be restored to the agreed condition within the specified timescales in the approved details.

12. The development hereby approved shall not be occupied until a Construction Statement detailing how the new homes shall meet a water efficiency standard of 110 litres or less per person per day has been submitted to and approved in writing by the local planning authority, unless otherwise agreed in writing with the local planning authority through a demonstration that this requirement for sustainable water use cannot be achieved on technical or viability grounds. The development shall be carried out in accordance with the approved details.
13. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of made ground be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to and approved in writing by the local planning authority prior to the recommencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information shall be submitted to the local planning authority to demonstrate that any required remedial measures have been satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
14. The development hereby approved shall be carried out in strict accordance with the mitigation measures contained with Chapter 6 "*Further Surveys, Mitigation and Enhancement*" of the Preliminary Ecological Appraisal by ES Ltd dated 11/2021.
15. Prior to the commencement of development above slab level, a Biodiversity Enhancement & Management Plan (BEMP) shall be submitted to and approved in writing by the local planning authority. The Plan shall deliver a minimum of 0.85 Habitat Biodiversity Units and 2.02 Hedgerow Units. The BEMP will include the results of the provided Biodiversity Metric, specific species enhancement measures referred to in Chapter 6 "*Further Surveys, Mitigation and Enhancement*" of the Preliminary Ecological appraisal by ES Ltd and the following:
 - a) Description and evaluation of features to be managed and enhanced
 - b) Extent and location/area of proposed enhancement works on appropriate scale maps and plans to include species/faunal enhancement measures
 - c) Ecological trends and constraints on site that might influence management
 - d) Aims and Objectives of management
 - e) Appropriate management Actions for achieving Aims and Objectives
 - f) An annual work programme (to cover an initial 5-year period)
 - g) the provision of representative photographs and a brief description on a 5 yearly basis by the relevant management body.
 - h) The Plan will be reviewed and updated every 5 years and implemented for 30 years.

The Plan shall include details of long-term implementation and how it will be secured by the householder.

The Plan shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the Objectives of the originally approved Plan. The approved plan will be implemented in accordance with the approved details.