



Appeal Decision

Hearing held on 21 June 2023

Site visit made on 21 June 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/P1615/W/21/3287436

Land at Park Hill, Woolaston, Gloucester GL15 6PX

- 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 Miss Josie Summers against the decision of Forest of Dean District Council.
 - The application Ref P1966/20/FUL, dated 11 November 2020, was refused by notice dated 25 June 2021.
 - The development proposed is siting of a temporary rural worker's dwelling for three years, treatment plant, stables and hay barn, use of an existing access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Forest of Dean District Council against Miss Josie Summers. This application is the subject of a separate decision.

Procedural Matters

3. Subsequent to the issuing of the decision notice by the Council, the National Planning Policy Framework (the Framework) was revised. The Framework remains substantively unchanged insofar as its policies relate to the appeal scheme. When referenced in this decision, relevant paragraph numbers of the Framework reflect the 2021 revision.
4. After the hearing I carried out a site visit which began at Woodside Farm, where the appellant currently resides, and continued at the appeal site itself.

Main Issue

5. The main issue is whether there is an essential need for a rural worker to live at the site, taking into account evidence on the future viability of the enterprise.

Reasons

6. The appeal site covers 11ha and is located within open countryside, outside of any settlement boundary. The nearest settlement with any services or facilities is Woolaston, but this involves a journey of at least 3km by road. There are no dwellings in the immediate vicinity of the site, but a loose scattering of homes exists along Park Hill Road and on nearby Park Hill Common.

7. The policies cited on the decision notice are not explicit in setting out the Council's approach towards development in the countryside. However, it is clear that Policy CSP.4 of the Core Strategy (2012) (CS) seeks to concentrate development at towns. Policy CSP.1 of the CS and Policy AP1 of the Allocations Plan 2006-2026 (AP) are more broad-brush in seeking to protect the environment and promote sustainable development. The latter policies are relevant inasmuch as they set the over-arching principles for development.
8. The supporting text for Policy CSP.4 explains that there will be cases when development is not located at settlements because of its nature, but states that these must be justified. I have not been directed to any specific development plan policies on rural worker housing, but there is pertinent policy and guidance at a national level. Paragraph 80a of the Framework stipulates that isolated homes in the countryside may be considered where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
9. The Planning Practice Guidance (PPG) sets out the considerations it may be relevant to take into account when applying Framework paragraph 80a. This includes whether there is evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future. The PPG explains that, in the case of new enterprises, it may be appropriate to consider granting permission for a temporary dwelling for a trial period.
10. The proposal is for a temporary dwelling, but the enterprise is not strictly a new one. The appellant already practises as a qualified equine dentist and also runs a horse breeding and livery enterprise using ten stables at Woodside Farm in Woolaston Common. These stables belong to the appellant's father, in whose annexe she resides at Woodside Farm. The existing stables are home to three livery horses and a number of other horses owned by the appellant and used for breeding. This includes a Connemara Stallion, two Connemara mares and three Dutch Warmblood mares. Several of the mares were in foal at the time of my visit.
11. The proposal would provide the appellant with independence by enabling her to transfer her business to a separate site. The Council suggests that the current arrangement at Woodside Farm could continue but given that the appellant is well into adulthood it would be unreasonable to expect her to reside at her father's property indefinitely. In my opinion, she is fully entitled to consider moving to a new site and should not be placed at a disadvantage relative to others who may wish to set up new equestrian businesses.
12. The appeal site would provide the appellant with such an opportunity. The land is within family ownership, but I am told that the development itself would be funded in part by a mortgage. The proposal would take the form of a temporary log cabin, a block of four stables and an extension to an existing stone barn to form an animal feed and machinery store.
13. In general, the majority of duties involving horses are routine. Activities such as feeding, mucking out and exercise can be carried out during the working day, with a check first and last thing. However, the Council conceded that horses tend to be more prone to health issues than your average farm animal; in particular, foaling and after birth care would require vigilance and likely out of

normal working hours attendance. It further accepted that most horse owners paying for part and full liveries would expect somebody to be present on site to provide the necessary security and supervision. Based on the evidence, I consider that the appellant would need to be resident on site in order to make the breeding and livery elements of the business a success. It is unclear from the information presented how many horses would visit the appeal site for dentistry treatment. However, the agent accepted at the hearing that most clients would have their horses treated at their own premises.

14. The Council contends that a development of four stables would be insufficient to support a viable equestrian business. The agent conceded this point at the hearing, stating that it was always the intention to have ten stables to mirror the current setup at Woodside Farm. The appellant's statement of case states that the lack of stables is becoming an issue and therefore it is reasonable to expect that a re-located enterprise (which is effectively what this would be) would need at least as many stables as a prerequisite. A previous application for a temporary dwelling and ten stables at the appeal site was refused due to the lack of a demonstrable functional need to live on site, the impact on the character and appearance of the area and the intensification of an access with substandard visibility.
15. The appellant is using the proposal as a starting point, but without an acceptable scheme for the required number of stables, the business is unlikely to achieve viability. I appreciate that horses can be grazed on adjacent land within the appellant's ownership and control, but there needs to be the option of stabling, particularly for livery customers. In the event that the appellant chose to continue keeping some of her own horses at Woodside Farm, this would raise issues of whether she would be able to provide the necessary supervision without a reliance on her father who would not be a paid employee and, by his own admission at the hearing, is not involved in the business (albeit willing to help out his daughter where needed).
16. As explained above, one of the relevant considerations when assessing need is the degree to which there is confidence that the enterprise will achieve viability. Planning permission should not be granted for a dwelling, even a temporary one, if there is no reasonable prospect of the enterprise succeeding. Whilst I have no reason to doubt the intention and capability of the appellant to develop an equestrian enterprise, I have not been provided with any audited accounts showing financial performance to date. The appellant has supplied a financial summary for the equine dentistry element, and this shows very modest profits for the 2017/18 and 2018/19 financial years. However, there is no information relating to subsequent years, and no actuals for the horse livery or breeding, beyond a list of horse sales between 2014 and 2019. There is no data on transactions since then, although I was told that foaling takes place most years.
17. The application is accompanied by a series of financial forecasts for the five years 2019/20 to 2023/24. All but one of the years is now in the past and therefore they should be reflected in actual (and not projected) figures. I note that profits were predicted to triple in Year 4 of the forecast as a result of the ramping up of livery to ten horses, including five full liveries. The site would not support this scale of operation with only four stables. Additionally, the Council's consultant pointed out that the horse feed had been costed at £15 per year, whereas in practice £50 per horse per month was more realistic. The agent put this down to an error, but this casts doubt on the figures.

18. Overall, whilst I acknowledge that the appellant has put significant effort into making her submission, the financial evidence before me is not sufficiently robust to demonstrate that the enterprise would become viable and remain so. Crucially, the proposal would make inadequate provision for stabling and, having regard to the planning history of the site, there can be no certainty that a future application to increase the number of stables would be viewed favourably by the Council. On that basis, I cannot be confident that the enterprise would be sustainable in the long term, and consequently I am unable to conclude that there is an essential need for a worker to live at the site. This leads to conflict with the countryside protection objectives of CS Policy CSP.1, the locational strategy set out in CS Policy CSP.4 and the environmental aims of sustainable development within AP Policy AP1.

Other Matters

19. The application has received a significant amount of support, with many of the interested parties complimenting the appellant's work ethic, ability with horses and contribution to the rural community and local economy. I have taken these representations into account, but they do not outweigh the harm arising from the failure to comply with the development plan and national policy.
20. Concerns have been raised over the suitability of Park Hill Road to accommodate the proposed development. The lane is narrow but no different to many other lanes in this part of the District. Opportunities for vehicles to pass one another are limited, but they do exist. Whilst it may be desirable to provide formal passing bays to avoid the need to reverse, this can only be secured within the public highway or on land owned by the appellant. Given that there is no information on landownership, passing bays cannot be insisted upon. In any event, the Highway Authority does not consider them necessary in order to grant planning permission and I have no reason to take a different view.
21. Based on my observations, I am satisfied that it would be possible to construct the site access without harm to an adjacent mature tree. Visibility to the east for drivers leaving the site is good and the trimming of roadside vegetation would provide acceptable visibility of oncoming vehicles in the opposite direction. The proposal would therefore secure safe and suitable access for all users and there would be no harm to highway safety on Park Hill Road.
22. The Council did not raise any specific concerns over the impact of the proposal on the character and appearance of the area. The land is discreetly located in relation to Park Hill Road, but the development has the potential to be visible from the adjoining footpath (FW043), near the site entrance, and from more distant vantage points in the River Severn direction, due to the rising scarp. These impacts could be mitigated by new planting, but the development would still be discernible as new built form in the countryside. The Council advised at the hearing that, provided that the development had been properly justified, and subject to appropriate landscaping being secured, this would not be harmful.
23. The local planning authority did not seek any ecology surveys during the planning application. However, a local resident suggests that there are bats in the stone barn. Based on my site inspection, this possibility cannot be ruled out. Furthermore, the appellant's father indicated at the hearing that there were great crested newts on his land. I am not clear whether this protected species would be directly affected by the proposed development, but it would be prudent to carry out relevant surveys prior to any future application. These

would establish the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, together with any mitigation measures required. Paragraph 99 of ODPM Circular 06/2005¹ explains that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

24. The agent made a general reference at the hearing to other developments that had taken place in the area. I was not given any specifics and do not know the background to those schemes. In any event, it is an established principle that planning applications should be determined on their own merits, having regard to the provisions of the development plan and other material considerations.
25. Whilst I note that the appellant has raised concerns over the handling of the planning application, these should be taken up with the Council and are not relevant to my consideration of the planning merits.

Planning Balance and Conclusion

26. The proposal accords with the Government's objective, expressed within paragraph 84 of the Framework, to support a prosperous rural economy by enabling the development and diversification of agricultural and other land-based rural businesses. However, the scheme has not been properly justified as an exception to the general policy of restraint over development outside of settlement boundaries. It therefore conflicts with the environmental protection aims of the development plan and that part of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. Framework paragraph 15 reminds decision-makers that the planning system is plan-led, and I have attached the harm arising from policy conflicts considerable weight.
27. The scheme would conflict with the development plan taken as a whole and there are no material considerations to justify a decision otherwise than in accordance with the development plan. The adverse impacts would significantly and demonstrably outweigh the economic and social benefits, such that the proposal would not constitute a sustainable form of development.
28. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR

¹ *Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system*

APPEARANCES

FOR THE APPELLANT:

Mr Phillip Summers Father of the appellant (acting as agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Colegate Principal Planning Officer

Mr Robert Fox Rural Consultant

INTERESTED PARTIES:

Mr Clive Neville Local resident

Mr Tom Kelly Local resident