



Appeal Decision

Hearing Held on 18 October 2023

Site visit made on 18 October 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2023

Appeal Ref: APP/C1570/C/22/3310260

Land East of Springwell Place, Walden Road, Little Chesterford, Saffron Walden, Essex CB10 1UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Gary Cleary against an enforcement notice issued by Uttlesford District Council.
 - The enforcement notice was issued on 11 October 2022.
 - The breach of planning control as alleged in the notice is: without planning permission the erection of a building for residential purposes.
 - The requirements of the notice are:
 - Remove the structures from the land identified by X on the attached plan.
 - Remove all resultant debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d), (f), and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be:

- Corrected by substituting the site plan attached to the issued enforcement notice with the one attached to this decision.
- Corrected by deleting the words: "- Remove the structures from the land identified by X on the attached plan. - Remove all resultant debris from the site" under section 5 of the enforcement notice (what you are required to do) and its replacement with:

"a) Remove the structure from the land outlined in red on the attached plan; and b) Remove all resultant debris from the site."
- Varied by deleting the words "three months" within section 5 (what you are required to do) and its replacement with "nine months".

2. Subject to these corrections and variation, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural matters and matters concerning the Notice.

3. The Notice alleges the erection of a building for residential purposes clarifying in the reasons for issue, that it is a dwelling. The deemed planning application and ground (a) appeal is therefore solely for the erection of a building for residential purposes only and not for any residential use of any land. The site plan attached to the enforcement notice includes the wider area of land edged red. However, since no material change of use is alleged, it is only necessary for the red line boundary to surround the alleged building only. The Council have provided an additional site plan during the hearing showing the red line boundary around the building only. It is necessary to correct the notice by substituting the site plan attached to the enforcement notice. The parties agreed that this would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to make this correction.
4. The requirements of the Notice seek the 'structures' (in the plural) to be removed but refer only to the erection of one building in the allegation. The Council confirmed that this is a typographical mistake and should be substituted for the word 'structure' (singular). The parties agreed that this would not cause injustice to either party. Accordingly, I can therefore use my powers under the provisions of s176(1)(a) to make this correction.
5. Prior to the hearing, the appellant withdrew the appeal on ground (d). Therefore, the appeal is proceeding on the grounds (a), (f) and (g) only.
6. I have also dealt with another appeal (Ref: APP/C1570/C/23/3324819) on this site. That appeal is the subject of a separate decision.

Appeal on ground (a), the deemed planning application

Main Issues

The main issues are:

- i) the effect of the development on the character and appearance of the area;
- ii) whether there is an essential need for a rural worker to live permanently at the site; and
- iii) the effect of the development on highway safety.

Character and appearance

7. The appeal site relates to an area of primarily open land, which previously has been used for grazing by horses. The site is located in an area of gently undulating countryside comprising predominantly open fields with boundary hedgerows, trees and small wooded area. It is a typically rural area with sporadic development which includes farmsteads, and the neighbouring Springwell Nursery and Garden Centre. The development relates to a single storey 'log cabin' style building used for residential purposes, in connection with the use of the land.
8. I appreciate that the building, owing to its position and external appearance, is not highly visible from public views, and that some built form has already been tolerated on this land in connection with the use of the site for the grazing of

animals, as demonstrated by the Council's non-expediency report for a former stable building. However, just because the former stable building was not considered harmful, does not make the current development acceptable.

9. The current development, which includes a patio glazed doors and windows on the front elevation, together with residential paraphernalia outside the building, and associated comings and goings introduces a new domestic building within the countryside, which changes the character of the land. Although the building is well screened by the trees and hedgerows, nevertheless it is visible from more distant views neighbouring land. Consequently, it is a discordant feature that is not sympathetic to its open and rural surroundings.
10. Therefore, the development harms the character and appearance of the countryside. It conflicts with Policies S7 and GEN2 of the Uttlesford Local Plan, 2005 (LP), and Policy GLCNP/1 of the Great and Little Chesterford Neighbourhood Plan, 2023 (NP). Amongst other things, these state that the appearance of the development should protect or enhance the particular character of the part of the countryside within which it is set, that the building should be compatible with the form, layout and appearance of surrounding buildings, and that outside settlement boundaries the intrinsic character, rural nature and beauty of the area will be recognised and preserved and enhanced.

Essential need for a rural worker

Policy considerations

11. The parties agreed that the development is in the Countryside for planning policy purposes. Policy S7 of the LP states that in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. It further states that there will be strict controls on new building. Furthermore, Policy GLCNP/1 of the NP states that outside of the Great Chesterford development limits or Little Chesterford settlement boundary development proposals should relate to uses that need to be located in the countryside.
12. Policy H12 of the LP states that "new dwellings or the conversion of existing buildings for agricultural workers may be permitted if both the following criteria are met:
 - a) It can be demonstrated that there is an essential need for someone to live permanently on site to provide essential care to animals or processes or property at short notice.
 - b) The scale of the proposed dwelling(s) relates to the needs of the agricultural enterprise.In these exceptional circumstances, residential occupancy conditions will be imposed."
13. The supporting text to Policy H12 explains that the Policy is a "*stringent one*" which requires the applicant to "*demonstrate that new residential accommodation is essential for the enterprise and not just convenient*". In addition, the text clarifies that the planning application will need to demonstrate that the intention to engage in agriculture is genuine and will be sustained for a reasonable period of time.

14. Furthermore, paragraph 80 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) 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.
15. This is supported by the Planning Practice Guidance (PPG) which also sets out the functional need as well as the degree to which there is confidence that the enterprise will be viable for the foreseeable future are both factors that may be relevant when considering whether there is an essential need for a rural worker. The PPG also states that "in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period."
16. In that light I will now turn to the various criteria set out in Policy H12 of the LP and the PPG above.

Whether there is an essential need for someone to live permanently on site to provide essential care to animals at short notice.

17. The wider appeal site is approximately 10.5 acres¹ and laid to grazing. There is no dispute that equine and agricultural enterprises are run from the site. The appellant also explained that a further 13 acres of land have been acquired off-site at Much Haddham and Thaxted, which the appellant intends to use primarily for hay making but also summer grazing for the sheep and goats.
18. The current enterprises operating from the site includes a horse breeding enterprise (HBE) and a sheep and goat breeding enterprise (SGBE). The appellant purchased the site in January 2021, and I heard that the residential building was erected soon after to support the various enterprises on the land.
19. Both the appellant and the co-owner, Adelle Otolle, live and work on the holding. Both owners work part time on the land and between them this equates to an equivalent of one full-time worker. A sight and sound argument to underpin the essential need for the rural workers dwelling was also advanced. This principally concerns the welfare and security needs of the breeding animals on site, and particularly the pedigree and pure-bred stock which can be valuable.
 - a) Horse breeding enterprise (HBE)
20. The owners of the site have brought, bred and then sold horses for several years and brought the horses with them from other land when they acquired the site. At the time of the hearing, I was told there were 12 horses on the site which include a Shire horse breeding stallion, 1 Shire Mare, 1 Shire Foal, 1 Clydesdale Mare, 1 Clydesdale Foal and 5 breeding Mares. 4 foals have been born at the site so far (2 in 2022 and 2 in 2023). However, the appellant's aim is to have 4 or 5 next year.
21. I acknowledge that horse breeding is not a straightforward process, and typically involves mating, re-mating, birthing, and nursing. Foaling mares can require 24-hour supervision prior to, during and after foaling with a high level

¹ Taken from appellant's statement of case.

of general husbandry. Births may take place at any time and problems may occur. The process following birth is time critical with Mare and Foal needing careful attention. At times early intervention may be necessary. Mares which have struggled with foaling are at risk from conditions such as prolapsed womb, mastitis. Colostrum is essential for the well-being of the new foals, and it can take 3-6 days of assistance before foals are able to suckle naturally and foals that are unable to suckle have to be bottle fed with milk taken from the mare.

22. However, the owners clarified that the birthing season for horses is during 'warmer weather' which typically is "April to August." Additionally, the owners and horses have been on site since January 2021 and so far, only 4 foals have been born on site. Furthermore, the gestation period of a horse is 11 months, within a 6-week period. Therefore, the controlled mating of the horses is likely to take place at a broadly similar time of the year as birthing. Thus, there is little to support the view for an onsite presence throughout the year in respect of breeding of horses given the relatively short window for births and relatively small number of births on this site.
23. I accept that horses are prone to illnesses (which include dietary disorders and Colic) and note that these are high value pedigree breeding horses, and therefore it is important that a person is available to provide care and assistance when needed. However, long working days, early starts and finishes are part and parcel of many equine and farming practices and do not themselves demonstrate a functional need for a rural worker to live on site. In any case, given the late finishes and early starts associated with farming, it seems reasonably likely that any unsupervised overnight periods would be relatively short, and given the relatively low number of animals onsite any essential overnight presence required would be relatively infrequent.
24. The appellant considers that the appeal site, being a stud farm with a Shire Stallion, has differing needs than a typical equine facility. However, there is limited evidence before me to demonstrate the differential needs between keeping of breeding (pedigree) horses against normal horses. Whilst there may therefore be a requirement for a rural worker to be present on site for longer and unsociable hours, this would appear to be limited for a number of months of the year, during mating, birthing, and nursing and does not justify a year-round presence.
25. It was also advanced that a permanent onsite presence is required for the security of the high value horses, and that there is also risks from fire and that horses could escape on to the highway. However, there is no evidence of break-ins or thefts on the appeal site, and I observed during my site inspection that electric fencing and CCTV cameras were already in use at the site. Since there is currently no mains electricity supply nor wired internet connection, the appellant states that inclement weather could reduce the effectiveness of CCTV, with all electricity currently being supplied by solar panels.
26. I fully appreciate the appellant's concerns regarding the safety and security of their animals. Nevertheless, further electricity, internet and security options (alarm systems that could alert the owners and give them the opportunity to respond promptly given the close proximity to existing nearby settlements) could be explored at the site to enhance security. For these reasons, I am not

persuaded that the appeal site presents a level of vulnerability that justifies a year-round presence.

b) Sheep and goat breeding enterprise (SGBE)

27. I heard that one of the owners have owned and bred sheep for approximately 15 years prior to acquiring the appeal site. At the time of the hearing, I was told there were 8 Bagot goats, 10 Ouessant sheep (4 ewes, 4 lambs and 2 rams) and 15 Boreray sheep (6 ewes, 8 lambs and 1 ram).
28. Similar to foaling, I accept that breeding sheep and goats is not a straightforward and that supervision is vital, particularly during the breeding season. Nevertheless, this is also a planned event, with mating typically taking place in September, October and November. Given that the gestation period for sheep and goats is 5 months, this means that births typically occurs in early spring between February to April, just before foaling period. Whilst births could take place as late as June, given the relatively modest size of the flock the numbers of kids and lambs born outside of the spring period would be minimal. I acknowledge that the owners intend to grow the size of their flock of sheep and goat. While this will increase the labour requirements, the lambing and kidding season would nevertheless be over the same spring months.
29. Sheep and goat often hide their illnesses, and the need for general health checks at all times of the day, highlight the careful attention required for these animals. However, as outlined above long working days are part and parcel of most farms. Furthermore, these situations are replicated at many farms and equine facilities often with far greater numbers of livestock and land areas to cover, and do not themselves demonstrate a functional need for a rural worker to live on site. I also note that the entire herd will not be permanently based at the appeal site, with summer grazing of sheep and goat also taking place at Thaxted and Much Haddham. As such, a fair number of the standard man days would similarly be expected to be off-site away from the appeal site to monitor the flock.
30. In addition, the dwelling was erected in 2021 whereas the majority of the farm animals arrived later on the land in 2022. As such, given the dwelling pre-dates the majority of the animals it cannot be said there was a pre-existing essential need for the dwelling.
31. Therefore, on the evidence currently before me, and from all that I heard, there cannot be an essential functional need for a rural worker to live permanently at the appeal site to manage the animals.

Whether the scale of the dwelling relates to the needs of the agricultural enterprise

32. The residential accommodation, which is approximately 47sq.m in area, incorporating 1 double bedroom, a separate WC with shower and an open plan living, dining and kitchen area is not excessive in size. I appreciate that a Vet can also use this area to heat up water and use the shower facilities if necessary.
33. There are no other dwellings on the farm or buildings that could be converted to residential use. However, I note the presence of a number of existing towns and villages nearby, including Saffron Walden, Little Chesterford and Great Chesterford, and there is very little evidence before me to demonstrate that those settlements were fully explored prior to erecting the residential building

soon after acquiring the site. Whilst these settlements are not within line of sight of the site, I have already found that it has not been demonstrated that there is an essential functional need for a dwelling on this site. It follows that I am not persuaded that the dwelling relates to the functional requirements of the enterprises.

The degree to which there is confidence that the enterprise will be viable for the foreseeable future.

34. The appellant's statement states that the business whilst established in terms of HBE has been expanded and will be expanded further with the introduction of other enterprises, namely the SGBE. I heard that in 2021, the site was set up with the erection of the residential building and fencing and horses brought onto the land. In 2022 the owners sourced sheep and goat and in 2023 was the first year of breeding.
35. The main revenue the stream for the enterprise is the sale of the young horses, where the HBE aims to sell 3 young horses per annum with a sales price of around £25,000 and a target of 5 serviced mares with the Shire stallion for a fee of up to a £1000 per time. In terms of the SGBE, ewes can sell upwards of £600 each with rams going to meat at £100 - £150 each. The owners aim to produce approximately 20 animals a year at a total sale price of £6-7000 within the next three years. With regard to goats, the owners aim to sell nannies for £500 each for breeding with and anticipated sales of £5-6000 within the next 3 years.
36. The appellant accepts that they are unable to currently demonstrate that the business is financially viable for the foreseeable future. However, given that we are now in late 2023 and that the HBE was operating at the appeal site since early 2021, it is noteworthy that no actual certified financial accounts or sales figures have been submitted to demonstrate whether the forecasts and predictions are running to plan.
37. Furthermore, there is no business plan for the enterprises, no calculation of year-on-year growth, no explanation of how the cash flow turnover is going to be managed, no details of the running costs for the business (for example food, rent, bills, machinery), and no indication of how much revenue the business has made so far. I note that the appellant states that this is the first year of breeding. Notwithstanding this, I heard that one of the owners has bred and sold horses and sheep for several years on other land, and no evidence of those previous sales or accounts have been provided. As such, there is little evidence to demonstrate that the development relates to a bona fide a rural enterprise, operating as trade or business.
38. Planning permission is sought for a dwelling for a temporary trial period of 4 years. Nevertheless, the residential building and HBE has been in existence on the appeal site since early 2021, with one of the owners' breeding horses and sheep on other land for several years before this. As such, that would appear to have already been a reasonable amount of time to provide some further financial evidence for the HBE and SGBE.
39. Therefore, despite the initial financial investment, energy, and commitment from the appellant to set up this venture, there is a distinct lack of financial evidence over recent years to demonstrate that the business is financially sound and has a clear prospect of remaining viable for the foreseeable future.

Conclusion on whether there is an essential need for a rural worker to live permanently at the site.

40. Whilst there is support in the Framework for a prosperous rural economy, such development should be sensitive to its surroundings. Therefore, having regard to the functional requirements of the business and the financial aspects, an essential need for a rural worker to live permanently at the site has not been demonstrated. Consequently, the development is contrary to Policy H12 and S7 of the LP, which seeks the aforementioned aims. It also conflict with Policy GLCNP/1 of the NP states that outside of the Great Chesterford development limits or Little Chesterford settlement boundary development proposals should relate to uses that need to be located in the countryside.

Highway safety

41. The site is situated within the countryside away from regular public transport facilities. As such, occupiers and visitors to the site would be expected to arrive by private motor car. My attention has been drawn to a previous appeal decision ref: APP/C1570/W/18/3202146 which was dismissed for wooden stables (7 separate units) for private equestrian use on existing grazed land was dismissed on 12 November 2018. In that case the Inspector noted that the existing access into the site is narrow, off the busy Walden Road, and is at an acute angle to the main road. The Inspector highlighted that it is only convenient to use the access in one direction and its use could involve difficult and possibly dangerous manoeuvres for vehicles gaining access to or leaving the site.
42. Essentially the same highway safety concerns arise in the current appeal. The new residential building on the site, would result in the site being more intensively used, in terms of comings and goings (by the occupiers, visitors, and deliveries) when compared to the previous use of the land for grazing. Furthermore, no substantive evidence has been submitted to demonstrate that the additional residential building on the site, would result in fewer vehicle movements to and from the site. For these reasons, the nature and layout of the existing access would compromise the safety of the vehicles in the vicinity of the site.
43. I therefore conclude that the development results in an unacceptably increased risk to highway safety in the vicinity of the site, in conflict with Policy GEN1 of the LP. Amongst other things, this states that development will only be permitted if access to the main road network must be capable of carrying the traffic generated by the development safely.

Planning Balance

44. The development causes harm to the character of the countryside and to highway safety, and I have found no special reasons why the development needs to be in the countryside. Therefore, it conflicts with Policies S7, H12 and GEN1 of the LP, and Policy GLCNP/1 of the NP and does not accord with the development plan as a whole. However, the provisions of Policy S7 of the LP do not fully reflect the approach to development in rural areas contained in the Framework. Also, Policy GEN1 of the LP also does not fully reflect the approach in the Framework, in so far as the Framework attaches priority to sustainable transport but acknowledges that this is dependent on the type of development

and its location. Therefore, the weight to be given to these conflicts is less than significant. Furthermore, the policies which are most important for determining this appeal are out-of-date. Paragraph 11 d) of the Framework is therefore engaged.

45. The appellant highlights that the development provides security and welfare benefits for the animals grazing on the land, particularly the pedigree breeds of horses, sheep and goats, and the development is located in an area which supports the rural economy. Set against this, the Framework sets out that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The Framework also states that isolated homes in the countryside should be avoided, unless there is an essential need for a rural worker, to live permanently at or near their place of work in the countryside. However, I have found that an essential need has not been demonstrated. I also note that the Framework requires that safe and suitable access to the site is achieved for all users, which has also not been demonstrated. Therefore, the adverse effects identified above would significantly and demonstrably outweigh the limited benefits, when assessed against the policies in the Framework when read as a whole, and so the presumption in favour of sustainable development does not apply.

Overall Conclusion on the Ground a) appeal

46. There are no material considerations that warrant reaching a decision other than in accordance with the development plan. The appeal on ground (a) must therefore fail and the application for permission deemed to have been made will be refused.

The Ground (f) appeal

47. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
48. The enforcement notice requires the removal of the structure, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity. The appellant states that it is only necessary to remove the residential use and not the building, as per the Council's previous non-expediency report for stables.
49. However, the appellant accepts that whilst there was a previous stable building in the same position, the works undertaken are akin to a new building, which is used for residential purposes. Furthermore, stables do not form part of the development before me. Indeed, it is open to the appellant to submit a planning application to the Council for this alternative scheme if they so wish.
50. As the notice does no more than seek remedy of the breach, it is not excessive. It is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
51. On this basis, the Ground (f) appeal fails.

The Ground (g) appeal

The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 to 9 months. In particular, the appellant states that there are breeding animals at the site and depending on the season there are young lambs, kid goats and foals on the site. As such a near farming calendar year is required to move the livestock and organise alternative premises, where supervision is available at critical times,

52. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements, and the requirements of the notice do not require the animals to be moved.
53. In my opinion, 9 months would strike a more reasonable and proportionate balance and would provide additional time for the appellant to find alternative accommodation and carryout the necessary remedial works. Furthermore, 9 months would also coincide with late summer and early autumn period and outside of any birthing and nursing period for the animals when they are more likely to require more care. I shall therefore extend the period from 3 to 9 months for compliance with the notice.
54. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

55. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with corrections and a variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Brian Barrow, Acorus Rural Property Services Ltd
Mr Gary Cleary, Appellant
Ms Adelle Otolle, Co-owner and occupier of the appeal site

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Marshall, Planning Enforcement Team Leader, Uttlesford District Council

INTERESTED PERSONS:

Rowan Clapp, Cornerstone Barristers on behalf of The Springwell Residents Association

Karen Waring Neighbouring resident

Documents submitted during the Hearing.

1. Statement by Rowan Clapp of Cornerstone Barristers on behalf of Springwell Residents Association.
2. Site plan of Land East of Springwell Place, with the building edged in red.



Plan

This is the plan referred to in my decision dated: 06 November 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

**Land at: Land East of Springwell Place, Walden Road, Little Chesterford,
Saffron Walden, Essex CB10 1UE**

Appeal Ref: APP/C1570/C/22/3310260

Scale: Not to scale

