



## Appeal Decision

Hearing held on 24 October 2023

Site visit made on 24 October 2023

**by Stewart Glassar BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> November 2023**

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### **Appeal Ref: APP/J1915/W/23/3319942**

### **Paddock Lodge, New Barns Lane, Much Hadham, Hertfordshire SG10 6HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for the siting of a mobile home an agricultural worker's dwelling for which a previous planning permission was granted for a limited period.
  - The appeal is made by Chaldean Estates Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/2459/VAR is dated 24 November 2022.
  - The application sought planning permission for the siting of a mobile home for an agricultural worker's dwelling granted planning permission for a limited period Ref 3/19/2616/FUL, dated 3 April 2020.
  - The permission is subject to a condition requiring the cessation of the use on or before 3 April 2023.
  - The reason given for the condition is: The development is a temporary expedient only having regard to amenity of the surrounding area.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matter**

2. Two documents were submitted during the Hearing which set out the vineyard's 5 year budget for operations (2023 – 2027); and a breakdown of capital expenditure. Given that they do not fundamentally alter the proposal and were of relevance to the discussions between all parties at the Hearing, I have taken them into consideration in my decision.

### **Main Issues**

3. The main issues are a) whether or not there is an essential need for a mobile home to accommodate a rural worker; and b) the effects of the proposed development on the character and appearance of the area.

### **Reasons**

#### *Essential Need*

#### Background

4. Planning permission was granted in April 2020 to use the appeal site for the temporary siting of a mobile home. The need for the mobile home was predicated on the basis of the Chaldean Estate's (the Estate) plans for diversification and in particular establishing an alpaca farm. The permission

was for a 3-year period and was subject to a standard agricultural occupancy condition. The permission was not tied to the alpaca enterprise. The diversification into alpacas was not subsequently pursued although the mobile home was placed on site and occupied.

5. In 2019, the Estate had already begun to diversify from its main activities, into growing grapes. Vines were planted in a part of the overall landholding just a few minutes' drive from the appeal site. That site is approximately 4 hectares (10 acres) in size and is now producing grapes which are supplied to a winery. It was explained at the Hearing that in 2022 the decision was taken to extend the grape growing activities and in May 2023, new vines were planted in a field of approximately 5.6 hectares (14 acres). This field is adjacent to the appeal site.
6. The application to extend the temporary permission for the siting of the mobile home was submitted after the decision to extend the vineyard but before the vines could be planted. The application did not explain that the alpaca farm had not come to fruition. Furthermore, no details or information of the vineyard were provided to support the need for the mobile home. Thus, without any supporting evidence the application was refused by the Council.
7. The Council is now aware of what has transpired in the intervening period and that a mobile home is said to be needed to house workers for the vineyard. Nevertheless, the Council maintains its assertions that an essential need for the mobile home has not been demonstrated.

#### Policy Context

8. The site lies within the rural area beyond the Green Belt. The Council's spatial strategy is to direct development to specified locations which can generally benefit from sustainable transport options and which in turn helps to protect the rural area beyond the Green Belt as a valued countryside resource. Thus, in locations such as the appeal site there is a general restriction on development. This approach is broadly consistent with the National Planning Policy Framework (the Framework).
9. Some specified forms of development are however permitted by the East Herts District Plan 2018 (EHDP) in the rural areas beyond the Green Belt. Aside from those specified in Policy GBR2, Policy HOU5 also establishes criteria against which dwellings for rural workers will be permitted. The general approach of HOU5 is not dissimilar to Paragraph 80 of the Framework, which specifically seeks to avoid isolated homes in the countryside unless specific circumstances apply, including the essential need for a rural worker.
10. At the Hearing the appellant favoured the wording of Paragraph 80 over that of HOU5, as it refers to 'homes', thereby encompassing a range of accommodation types, including mobile homes. However, given the size of the site and nature of the mobile home previously approved, there would be little practical difference between it being referred to as a 'dwelling' or a 'home'.
11. There was further discussion in relation to Policy HOU5, as it refers specifically to 'permanent dwellings', which was said to lessen its relevance to the proposal. However, Paragraph 80(a) also refers to rural workers living permanently (my emphasis) at or near their place of work in the countryside. In my opinion, the use of the word 'permanent' does not necessarily mean that

neither the EHDP nor the Framework would be applicable in this instance. Whilst the proposal would be time limited, it would nonetheless be present on site at all times, rather than for example seasonally, or just for specific events/operations. In that sense, it would be permanently located at the appeal site until April 2026.

12. The criteria set out in Policy HOU5 includes providing evidence of an essential need for the accommodation; that the enterprise has been established for at least three years; is financially viable; and there is no other suitable accommodation locally. Whilst the Framework does not contain any definition of 'essential need', HOU5 indicates it to mean that one or more workers need to be available at most times. The Framework provides a basis within which Councils can produce their own distinctive plans and policies, and there is nothing to prevent them from 'fleshing out' such terms.
13. No financial test is referenced in the Framework. However, it is legitimate to consider that there should be evidence that the business has a reasonable prospect of success and will endure for the life of the permission sought. Otherwise, it would be difficult to conclude that there was an 'essential need' for an enterprise with no such prospect. Consequently, I do not see those financial considerations as incompatible with the Framework, within the overall context of 'essential need'. Indeed, the appellants provided information at the Hearing in relation to expenditure and income/costs/profit, which also implies an acceptance of its pertinence.
14. Furthermore, the Planning Practice Guidance (PPG) at Paragraph: 010 Reference ID: 67-010-20190722, sets out considerations that may be relevant in assessing essential need. While the PPG is guidance rather than policy, it nevertheless provides clear direction that financial considerations can be relevant.
15. In view of the above, I am satisfied that Policy HOU5 is not out of step with the Framework and provides an appropriate basis for establishing whether or not there is an essential need for this proposal.
16. Although the Council's assessment relied in large part on Planning Policy Statement 7 (PPS7) it has been supplanted by the Framework, which is supported by the advice of the PPG. Therefore, as it is no longer Government policy, I attach no weight to PPS7 in relation to this appeal.

#### Operational Activities

17. The appellant set out various activities that need to be undertaken in relation to growing grapes and which are said to demonstrate that an on-site presence is essential. Of these, the one cited as most important is the need to be available to respond quickly to frost, which generally occurs late at night or in the early hours of the morning. Frost is a particular risk factor for grapes, and if action is not taken quickly, it can reduce yields and set back the productivity of the vines.
18. However, cold weather and frosts are, to a certain degree, limited to particular times of the year. Furthermore, they can generally be forecast, enabling precautionary measures such as lighting frost candles to be undertaken in advance of the frost arriving, thereby ensuring the air temperature in and around the plants stays above freezing. Indeed, it seems to me that given the

size of the vineyards and in order for this work to be effective, it would need to be undertaken in advance of the frost actually occurring and thus monitoring of the weather and pre-planning would be a crucial part of the operations.

19. I acknowledge that workers being housed on the site would avoid any additional journeys to/from the Estate at these times of the day and would generally be more convenient to all involved. However, many employment roles require people to start work early, or indeed work unsocial hours.
20. A temporary additional presence on or close to the vines to deal with frosts may be justifiable on occasion or a seasonal basis. However, it is unlikely that such a presence would be required constantly during the likely affected periods to deal with the threat of frost, or for the rest of the year. Accordingly, I do not find that the suggested benefits of someone being on site to deal with frost protection equates to an essential need to live on site through to April 2026.
21. Other routine activities associated with the operations were highlighted, such as pruning, leaf stripping, picking, spraying the vines, maintaining the trellis, weeding, etc. However, there is nothing to suggest that such activities cannot be carried out in the daytime or that they require a presence around the clock. Again, I appreciate that having someone on site to undertake this work offers flexibility and if necessary, could allow personnel to assist with the appellant's other activities such as the forestry operations, if weather or other events dictate. However, it does not in itself demonstrate an essential need for someone to be living at the appeal site.
22. Similarly, security was also cited as a concern and a contributory factor for having a mobile home on site. I acknowledge that a presence on site may act as a deterrent to potential theft or anti-social behaviour and offer an additional watching eye for residents in the immediate vicinity. However, I noted that the vines are secured by high fencing and there was no substantive evidence to suggest that additional fencing, alarms or CCTV would not represent a reasonable security response or provide a sufficient deterrent.
23. Whilst I do not doubt that security is a very real concern and that there have been incidents in the past, the appellants were unable to provide any definitive statistics or substantive evidence relating to what crimes the site is currently or was previously subject to. Based on the information before me, it has not been demonstrated that a residential presence at the site is the only viable or practical option for providing security at the site.

#### Viability

24. There is no reason to suggest that the financial details presented at the Hearing are unreasonable or unreliable. The figures themselves indicate that the operation would, after a small projected loss in 2024, return to profit in 2025. This profit although initially small, would be expected to grow over subsequent years. In these circumstances, it appears that the business has a financial plan with seemingly good prospects of remaining economically sustainable over the longer term. These certainly provide grounds to believe that it would be operating for the lifetime of the permission that is sought.

#### Alternative Accommodation

25. It was stated at the Hearing that the appellant's longer-term ambitions are to convert the storage barn close to the Estate's office building, which has prior

approval for a change of use to 5 dwellings. The building is within the Estate compound and so is likely to be developed as rental properties for those working within the Estate.

26. However, the barn is currently being used for storage and funding for the conversion has yet to be secured. Furthermore, the approval can be implemented up until August 2025. In such circumstances, these houses are likely to be a more medium-term solution. In the shorter term, if the appeal is dismissed, there may be a period of time when the mobile home is no longer on site and the barn has yet to be converted.
27. There was no dispute between the main parties that the cost of rental properties in Much Hadham is high, and beyond the scope of rural workers. Thus, they would be forced to travel greater distances to work on the Estate. However, it was clear from my site visit that Bishop's Stortford is approximately 6 miles from the appeal site. It was also evident that there are other nearby settlements. I was not provided with details of the cost of renting in these other locations nor any indication on the availability of accommodation.
28. Given the current difficulties with the number of people available to work in agriculture and rural enterprises, having the accommodation on site clearly makes it easier to attract and retain staff. However, the evidence before me does not entirely rule out the possibility of other accommodation options being available in the short term, and which are both within a reasonable distance of the site and affordable for a rural worker.

### Conclusion

29. From the appellant's point of view there are clearly operational benefits in being able to house workers on the appeal site. The longer-term financial viability of the vineyards do not seem to be in doubt and indeed there was a suggestion that in time, further fields could be given over to growing grapes.
30. As such, the proposal accords with certain aspects of Policy HOU5. However, it has not been shown that there needs to be a constant presence or availability of personnel on site at all times to deal with the vineyard's operations and activities. This leads me to conclude on this main issue that an essential need for a mobile home at the appeal site has not been clearly demonstrated.
31. Therefore, in this regard the development conflicts with Policy HOU5 of the EHDP which, amongst other things, requires an essential need to be demonstrated for a rural worker to live on site.
32. In doing so, the proposal would also conflict with the associated provisions of the Framework which seek to avoid isolated homes in the countryside.

### *Character and Appearance*

33. There was no dispute between the main parties that the design of the mobile home was in keeping with its rural surroundings. It was also evident from the site visit that outside of the confines of the Estate, the mobile home is only really visible from a position to the north-west, where a public footpath that crosses through the Estate meets Bromley Lane. In comparison to the farm buildings immediately around it, the mobile home is small. It is also set against a backdrop of taller, mature trees which make it less conspicuous. Therefore,

the intrinsic harm associated with locating a mobile home for a temporary period in this countryside location is small.

34. However, I have found that an essential need for a rural worker to live at the appeal site has not been demonstrated. Therefore, even the small amount of harm to the character and appearance of the area that I have identified would not be offset or justified and thus a conflict would arise with Policies GBR2 and DPS2 of the EHDP. These policies, amongst other things, establish a spatial strategy that generally direct development away from rural areas, which in doing so also protects the character and appearance of the countryside.

### **Other Matters**

35. Were a worker to be housed on site, a daily commute would be avoided, as would out-of-hours journeys to the site for say frost protection work. Nevertheless, the location would be likely to necessitate other journeys by car to access a reasonable range of shops, services and facilities. The limited range of shops and facilities in Much Hadham would be unlikely to meet the full range of needs a person might have. Furthermore, although Much Hadham might be cyclable from the site there are no public transport options and walking is unlikely to be attractive to many people. However, even if I were to conclude that the development had a neutral effect in terms of overall travel requirements, it would not alter or outweigh the harms I have identified above.
36. The listed buildings to the northeast of the appeal site (Carldane Court and Fig Tree Cottage) were confirmed at the Hearing as being Grade II. From my observations, insofar as they relate to this scheme, the setting of these heritage assets is the area immediately surrounding them, with the significance arising from their age and architectural features. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed buildings or their setting, or any features of architectural or historic interest which they possess. In view of the topography, intervening mature planting and separation distances involved, I find that the proposal would have a neutral effect on the setting of these heritage assets.
37. The Council has raised concerns regarding various works around the mobile home, such as fencing and a pergola, which are said to be unauthorised. I indicated at the Hearing that these were not matters relating to the variation of condition and so were beyond the remit of this appeal. I have not therefore included other references to these works within my decision.

### **Conclusion**

38. The proposed development conflicts with the development plan as a whole and there are no material considerations, including the Framework, either individually or in combination, that suggest a decision should be made other than in accordance with the development plan.
39. Therefore, for the reasons given, the appeal is dismissed.

*Stewart Glassar*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                  |                                               |
|------------------|-----------------------------------------------|
| Neil Davis       | Director, Davis Planning                      |
| Alan Granger     | Estate Manager, Chaldean Estates Limited      |
| Michael Pettifer | Investment Director, Chaldean Estates Limited |

### **FOR THE LOCAL PLANNING AUTHORITY:**

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|----------------|-----------------------------------------------|
| Rachel Collard | Team Leader, East Herts District Council      |
| Janna Hon      | Planning Officer, East Herts District Council |

## **DOCUMENTS submitted at the Hearing:**

Vineyards 5 Year Budget  
Capital Expenditure on Vineyards