



Appeal Decision

Hearing Held on 20 September 2023

Site visit made on 20 September 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20th November 2023

Appeal Ref: APP/V2635/W/22/3313887

Land south of Wellyard Cottages, Common Lane, Gayton Thorpe PE32 1PN

- 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 A English (English Woodland) against the decision of the Council of the Borough of Kings Lynn and West Norfolk.
 - The application Ref 22/00561/F, dated 31 March 2022, was refused by notice dated 29 June 2022.
 - The development proposed is the erection of workers dwelling with cart shed and workshop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the hearing the appellant submitted Magic Maps of the locality and a letter from Westacre Estate Management regarding tenancies in the area. These documents were made available for review at the hearing and the Council and interested parties had the opportunity to comment on these.

Main Issues

3. The main issues are:
 - whether or not it has been demonstrated that there is an essential need for a dwelling to accommodate a rural worker at the appeal site;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of occupiers of the surrounding dwellings with regard to noise and light.

Reasons

Essential Need

4. The site is an area of land on the south side of Common Lane, surrounded by fields to the west, east and south, with residential dwellings to the north on the opposite side of the road. The proposal seeks to erect a workers dwelling with cart shed and workshop at the site to house the appellant, in connection with his role in English Woodland.

5. Policy DM6 of the Borough Council of Kings Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016 (the DMP) states that new permanent occupational dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing that there is a functional need, that this need cannot be met by existing dwellings in the locality, and that the application meets a financial test.
6. English Woodland is a rural enterprise for the purposes of this policy. It provides a service to numerous estates in a defined operational area, including tree felling, remedial work, plantation development, and woodland maintenance. It also assesses trees adjacent to roadsides, public areas, and properties. A section of the operational area is covered on a 24 hour and emergency basis. This includes the Westacre Estate, the primary estate served by the company, and it is in this area that the site is located.
7. English Woodland has been operational since 2017 with demonstrated profits since this time. It was discussed at the hearing that the site is to be acquired at a personal rate, which together with the self-build nature of the proposal, would reduce build costs. Combined with the agreed interest-free loan, the business could financially sustain the size of the dwelling. There is nothing to suggest the business is not financially acceptable in all other aspects or would not remain profitable. As such, the financial test is met.
8. With regard to functional need, I see no reason why the day to day 'business as usual' forestry services would require a 24 hour presence at the site 7 days a week. While there are numerous estates and a sizeable area to cover, the nature of non-emergency forestry services is such that these could be carried out during normal working hours. However, the appellant states they must be immediately accessible to the area in particular to identify, assess, and act on emergencies. Between January 2018 and January 2021, 118 emergency operations were recorded in Westacre Estate, and multiple emergency operations were also carried out during storms in February 2022. This included two instances of imminent risk to property and eight with potential to injure.
9. At the hearing it was stated this is not representative of the workload or time undertaken to address emergencies, and that other emergency situations arise but do not get recorded as no action is taken. Even noting the unpredictability of such events, industry guidance on the dangers of fallen trees, and the need to patrol the area day and night following emergencies and adverse weather, it remains that a modest amount of resulting operations have been recorded. On this basis, it has not been demonstrated that such operations occur with a frequency that would justify a continuous on site presence.
10. Reference is also made to ash dieback and rewilding. I note ash dieback work is specialist, with potential for trees to cause damage or injury, particularly during adverse weather, and that there is limited opportunity to pre-empt signs of it occurring. Nevertheless, potential future pressures of ash dieback and the resulting extent of operations for English Woodland are not fully known, with nothing to suggest it would require 24/7 tree supervision. With regard to rewilding, English Woodland oversees containment of livestock in a sizeable area. However, it is not responsible for animal welfare. While there are likely risks associated with a failure to contain the livestock, there is

nothing to suggest this is expected to be a frequent occurrence or that significant health or mortality issues would arise as a result.

11. As such, although ash dieback and rewilding have potential to create further ad hoc situations that may require swift action from English Woodland, there is nothing substantive before me to justify a permanent base in the operational area on this basis. This is also the case for other diversified parts of the estate, such as glamping and workshops, for which there is no justification provided for a 24/7 presence of the appellant.
12. I have considered the vast size of the operational area and note that increased severe weather occurrences could result in more emergencies. It would be more convenient for the appellant to reside in this area, but this is separate to meeting the functional need of the business. A dwelling outside the operational area may result in greater travel and response times, including the need for return trips to collect machinery following initial appraisals and to transfer quad bikes to and from the area. However, on the information provided there is nothing substantive to suggest that this would equate to a functional need. The day-to-day nature of the duties carried out, and the reported frequencies of emergency operations, are not such that they would require a permanent presence at the site during both the day and night.
13. While the appellant primarily carries out work on the Westacre Estate where the site is located, they are not directly employed by the estate. I note the employment history provided and the reference to being a 'quasi-employee' with a working relationship, acting as a contractor to and for the estate. I further accept the work carried out by English Woodland is specialist and that it is a unique service provider in the locality. Nevertheless, it remains that English Woodland is independent of the Westacre Estate, further limiting the functional need for a permanent residence for the appellant in the estate area.
14. Accordingly, it has not been demonstrated that there is a clearly established existing functional need requiring the appellant to be adjacent to their enterprises in the day and at night. I note the evidence and discussions relating to other dwellings in the locality, including the expansion of the initial search, the unsuitability of current accommodation, and the comments from landowners on the lack of alternative available properties. I further note the requirement for accommodation to provide suitable storage for machinery to minimise theft and the insurance implications in this regard, albeit that limited justification has been provided as to why a storage yard in the operational area independent of a dwelling is not suitable or available. Nevertheless, even if I found a lack of suitable alternative accommodation and/ or storage in the locality, it remains that there is no functional need for the proposal.
15. For the reasons given, it has not been demonstrated that there is an essential functional need for a dwelling to accommodate a rural worker at the appeal site. As such, the proposal would conflict with Policy DM6 of the DMP and Policy CS06 of the Kings Lynn and West Norfolk Borough Council Local Development Framework Core Strategy 2011 (the CS) insofar as they seek to protect the countryside and restrict development of greenfield sites unless essential for agricultural or forestry needs and to ensure permanent dwellings are only allowed provided there is a clearly established existing functional need.

Character and appearance

16. It was discussed at the hearing that the Council raises no issue with the external design of the proposal. Based on my observations, I have no reason to disagree. The scale of the buildings and construction materials proposed would not, in themselves, result in the scheme appearing out of place in the locality, but would be reflective of the general character of the surrounds.
17. However, the site is on the southern side of Common Lane and lies opposite residential development. I note that in the wider setting sporadic development of buildings occurs on the southern side of roads, including to the east of site around St Mary's Church and to the west at the junction with the B1153, where buildings sit directly adjacent to the roadside. Nevertheless, it remains that the section of Common Lane in the more immediate vicinity of the site is notably free from development along the south, with the predominant immediate character on this side of the road clearly reading as open countryside.
18. Accordingly, despite the current use of the site being different from that of neighbouring land parcels and my comments on the scale and external design of the scheme, the introduction of the vertical built form proposed would be out of place. Planting along the site boundaries would provide screening, and I note that parties have agreed a condition relating to a planting scheme. Nevertheless, it remains that the proposal would be contrary to the predominant pattern of development in the immediate vicinity and would be an incongruous addition among the otherwise largely open fields present along this southern stretch of Common Lane.
19. For the reasons given, the proposal would result in harm to the character and appearance of the area. As such, it would conflict with Policies CS06 and CS12 of the CS, and Policy DM15 of the DMP insofar as they seek to ensure development maintains and protects local landscape character and responds sensitively to the local setting.

Living Conditions

20. The reasons for refusal included reference to potential harm to the living conditions of occupiers of surrounding properties, due to the proximity of residential dwellings and the reference to a 'workshop' in the development description. However, it was discussed at the hearing that the term 'workshop' is not representative of the proposed nature of the building to be erected at the site. The main parties agreed that this building would be for storage purposes only, which could be ensured by way of planning condition.
21. As such, the Council stated at the hearing that it had no concerns with regard to the effect of the proposal on living conditions. On the basis of these discussions, and on my observations, I have no reason to disagree. The nature of the building as a storage facility would not result in noise levels that would be out of place in the immediate context of surrounding residential dwellings. While the large doors would allow the housing of sizeable equipment, such equipment would not be in use at the site. Similarly, there is nothing to suggest that the level of external lighting required would be of such a level that would unduly impact surrounding residents, with the main parties agreeing to a condition regarding a lighting scheme.

22. For the reasons given, the proposal would not result in harm to the living conditions of surrounding occupiers. As such, there would be no conflict with Policy DM15 of the DMP insofar as it seeks to ensure that development does not have a significant adverse impact on the amenity of others.

Other Matters

23. The Statement of Common Ground acknowledges that the site is not isolated. On this basis, the appellant has queried the application of Policy DM6 of the DMP and the consistency with the National Planning Policy Framework. I am satisfied that the DMP as a whole is consistent with national policy. Regardless of whether the site is isolated, it remains that I have found no functional need for a permanent occupational dwelling. I must assess the scheme as it appears before me, and planning permission has not been sought for a market dwelling.
24. Reference has been made to the self-build nature, the ecological enhancement potential of the proposal, the carbon neutral design of the dwelling and the fact that it would maximise the potential of the site by bringing it into residential use. I acknowledge that these are benefits of the scheme. However, given the modest scale of the proposal and the site, these overall benefits are limited.
25. Interested parties have stated that the proposal would create community cohesion in allowing a local businessman and his family to reside in the area. This personal benefit carries very little weight in the planning balance.

Planning Balance and Conclusion

26. I have found that the proposal would not result in harm to the living conditions of surrounding residents. This represents a lack of harm which is neutral in the planning balance. Even when taken together with the other matters outlined above, this would not outweigh the harm arising due to the fact that it has not been demonstrated that there is an essential need for a dwelling to accommodate a rural worker at the appeal site or the harm to the character and appearance of the area.
27. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR

APPEARANCES

FOR THE APPELLANT

T Wheatley	Parker Planning Services
J Parker	Parker Planning Services
A English	Appellant
S English	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY

L Smith	Kings Lynn and West Norfolk Borough Council
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INTERESTED PARTIES

S Napier	Local resident
S Jarratt	Local resident
L MacDonald	Local resident
C Beales	Local resident
B Anota	Councillor, Gayton and Grimston Ward

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

1. Letter from Kelly Smith at Westacre Estate Management detailing lets and leases on Westacre Estate;
2. Magic Map of Westcare; and
3. Magic Map of East Walton.