



Appeal Decision

Hearing held on 12 September 2023

Site visit made on 12 September 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2023

Appeal Ref: APP/L3245/W/22/3302014

Nant Goch, Pen-Y-Bont, Oswestry SY10 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Bryn Jones against the decision of Shropshire Council.
 - The application Ref 21/00524/OUT, dated 16 March 2021, was refused by notice dated 5 January 2022.
 - The development proposed is described as "outline application (access and layout for consideration) for the erection of one agricultural worker's dwelling".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address varies in the submitted documents. Therefore, the site address in the banner heading above was agreed by the main parties at the Hearing.
3. The planning application form did not include a description of development. Therefore, the description of development in the banner heading above is taken from the Council's decision notice and the appellants' appeal form, which was agreed by the main parties at the Hearing.
4. Outline planning permission is sought with access and layout considered at this stage. Drawings have been submitted which include details of scale and information has been provided within the submitted documentation regarding appearance, matters which are reserved for future consideration. I have therefore treated this information as illustrative in this regard. I have determined the appeal on this basis.
5. Within the submitted written evidence there was a dispute between the main parties as to which sections of Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan, adopted 2015 ('the DP') were applicable to the proposed development, with the Council stating parts (a) and (c) and the appellant stating just part (c). At the Hearing, the appellant conceded that both parts (a) and (c) were applicable. I have therefore determined the appeal on this basis.
6. The Council's first reason for refusal refers to paragraph 79 of the National Planning Policy Framework ('the Framework'). However, it is clear from the submitted evidence that this is a typographical error, and it should in fact refer

to paragraph 80. The appellant has commented upon paragraph 80 of the Framework and therefore has not been prejudiced.

7. The Council's officer report raised concerns regarding the submitted Financial Budgets document¹ in respect of wage costs and fuel/oil costs remaining constant rather than fluctuating. At the Hearing, the appellant agreed that costs and income would fluctuate and therefore, they conceded that the financial information should have reflected this position. Despite this, the Council stated at the Hearing that they were satisfied that the enterprise could absorb the cost of the proposed dwelling and they did not wish to contest this matter further.

Main Issues

8. The main issues are:

- a) whether the proposed development would be an isolated new home in the countryside, and if so, whether there is an essential need for a third dwelling associated with the farm; and
- b) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Background and Policy Context

9. The farm comprises an existing dairy farm with a milking herd of approximately 760 cows calving year round. The land that is farmed extends to approximately 1091 acres, the majority of which is rented. The current accommodation comprises the original farmhouse occupied by the appellants, and a bungalow located on the opposite side of the lane from the farmhouse (known as The Brooklands) that is subject to an agricultural occupancy condition and is occupied by the appellants' son. The farmhouse and bungalow are located adjacent to the farmstead that contains both brick built and modern agricultural buildings. The appellants and their son work on the farm full-time and are supported by various full-time and part-time staff who live off-site.
10. The proposed dwelling would be located to the east of the main farm buildings at Nant Goch, separated by a field and an unnamed road. The proposed dwelling would be occupied by the appellants, their son would move from the bungalow into the farmhouse, and the bungalow would be occupied by a herd manager. The appeal site is not located within any settlement boundaries and is remote from any other form of development. In respect of paragraph 80 of the Framework, the term "isolated" simply connotes a dwelling that is physically separate or remote from a settlement. The proposal would therefore comprise an isolated new home in the countryside.
11. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy, adopted March 2011 ('the CS') states that new development in the countryside will be strictly controlled and should relate to a closed list of exceptions including, dwellings to house agricultural, forestry or other essential countryside workers in accordance with national planning policies and Policies CS11 and CS12. The policy states that in respect of this type of development,

¹ Financial Budgets Years ending Mar 22 & Mar 26, dated January 2021, prepared by Kite Consulting

applicants are required to demonstrate the need and benefit for the development proposed and it will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate. CS Policy CS11 refers to the type and affordability of housing, while CS Policy CS12 is not applicable to the proposed development.

12. Policy MD7a of the DP permits dwellings to house essential rural workers if (a) there are no other existing suitable and available affordable dwellings or other buildings which could meet the need and, (c) in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. Such dwellings will be subject to occupancy conditions. Part (b) of the policy is not applicable to the proposed development as it refers to proposals for a primary dwelling for an essential rural worker.
13. These policies are consistent with paragraph 80 of the Framework in seeking to ensure that isolated residential development in the countryside is strictly controlled unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

Essential Need

14. The main parties agreed that the farm generates an essential need for one or more workers to live permanently on site to provide stock welfare to the cows. From the evidence before me and from what I saw during my site visit, I am satisfied that there is a need for more than one worker to live on site to attend to the dairy operations and any emergencies that may arise at all times of the day and night, throughout the year. Therefore, the matter in dispute is how many agricultural workers are needed to permanently reside on site to meet the essential need of the farm.
15. There are currently three full-time workers living on-site, within sight and sound of the buildings used for the dairy farm operation. I accept that additional workers are required to support farm operations during a typical working day and that the milking operation has changed with the introduction of a new automated milking machine. However, the additional workers live off-site and there is no suggestion that this would need to change. Instead, the proposed dwelling is said to be required to allow the existing bungalow to be occupied by a herd manager.
16. Although located on land that forms part of the farm and within proximity of the main dairy buildings, the proposed dwelling would not be within sight or sound of those buildings. Consequently, the occupation of the proposed dwelling by the appellants would reduce the number of on-site permanent full-time workers within sight and sound of the farm from three to two. It has not been demonstrated from the evidence before me how the essential needs of the farm would be met by a reduction in the number of on-site staff.
17. The farm does not currently employ a herd manager. Consequently, it is uncertain whether one will be employed or whether the existing bungalow would be suitable. Therefore, at this time it has not been demonstrated that there is a need for the proposed dwelling to accommodate the appellants.

18. I accept that there may be a requirement for a herd manager to support the farm operations. However, no substantive evidence has been provided that the herd manager could not live off-site and support the existing employees. The appellants assert that they have been unable to appoint a replacement herd manager due to the lack of on-site living accommodation. However, this has not been supported with evidence. Even if evidence could be provided, it would not justify an essential need for a fourth full-time worker to live permanently at the farm. I am also uncertain why the proposed dwelling is to be occupied by the appellants rather than the proposed herd manager, particularly as they confirmed at the Hearing that they were not retiring and would still be involved in the farm's day-to-day operation.
19. The appellants state that they are overstretched, are unable to go on holiday, and find it difficult to find cover if one of them falls ill. However, these are management issues associated with the farm and I am not persuaded that such matters could not be addressed by other measures. Furthermore, the appellants conceded at the Hearing that holiday cover could be provided by a person(s) residing in the vacated dwelling for the period of the holiday, and in terms of both illness and holidays, this would likely be infrequent and therefore would not justify a permanent need for an additional worker to live on-site.
20. I observed during my site visit that there was a brick built linear barn to the east of the farmhouse that was predominantly used for domestic purposes and a building described by the appellants as the "former milking parlour" which did not appear to be used for any discernible purpose. No substantive evidence has been provided to discount the suitability of these buildings to house a rural worker.
21. The existing buildings are located on land that is rented from the Wynnstay Estate through a Farm Business Tenancy that is restricted in date until the appellants' son reaches 65 years of age. However, it has not been demonstrated from the evidence presented that the Wynnstay Estate would not be agreeable to the conversion of the existing buildings, or that the tenancy would not be extended in the future. Furthermore, the majority of the modern farm buildings including the new milking parlour are located on rented land and therefore, it would seem that consent from the Estate has been gained for other developments and the farm had no reservations in investing in these buildings. I acknowledge that constructing a dwelling on land owned by the appellants rather than rented is preferable. However, this is the personal choice of the appellants and does not override the policy requirement to first look to existing buildings to provide the accommodation.
22. I accept that a quick response time to deal with emergencies would be beneficial. However, the proposed dwelling, although close to the farmstead, would not be within sight or sound of the main dairy buildings which suggests that a property further away from the farmstead would be acceptable. It was stated at the Hearing that a response time of between 5-10mins to tend to an injured cow would result in an 80% survival rate. However, the evidence before me does not suggest that emergencies cannot be dealt with by the three full-time workers residing within the existing two dwellings.
23. At the Hearing both parties presented opposing verbal arguments of properties available to buy within the surrounding area. However, neither party submitted these findings as evidence and therefore I afford them limited weight. I accept

that it would be cost effective to build a dwelling on land owned by the appellants. However, evidence has not been provided to demonstrate that the enterprise could not absorb the cost of buying an existing dwelling in the locality. Therefore, I have not been provided with substantive evidence to suggest that there are no suitable and available affordable existing dwellings in proximity of the farmstead which could be occupied by an agricultural worker.

24. In view of all the above, having regard to national and local planning policies that seek to avoid isolated new homes in the countryside, an essential need does not exist for an additional agricultural worker to live permanently on or near the farm. Even if an essential need could be demonstrated, I am not satisfied that it could not be met by an existing dwelling or that an existing building could not be converted to meet this need.
25. In reference to the first main issue, the proposal would comprise an isolated new home in the countryside, and it has not been demonstrated that there is an essential need for a third dwelling associated with the farm. It would therefore conflict with Policy CS5 of the CS and Policy MD7a of the DP which, amongst other things, permit dwellings to house essential rural workers if there are no other existing suitable and available affordable dwellings or other buildings which could meet the need. It would also conflict with the Type and Affordability of Housing Supplementary Planning Document ('the SPD') which sets out the criteria to consider when granting occupational dwellings, and paragraph 80 of the Framework which seeks to avoid isolated dwellings in the countryside unless an exception is met.
26. The Council's decision notice also references CS Policies CS6 and CS11. However, these policies are not directly relevant to this main issue and are therefore not applicable.

Character and Appearance

27. The appeal site comprises part of an existing field that, at the time of my site visit, was mainly used for growing maize. The field gently slopes downwards towards the B4396, is bounded by a single width unnamed road to the west, while the field to the north rises steeply upwards. The surrounding landscape is undulating and is characterised by isolated farms and dwellings interspersed with fields, trees and woodlands. The field is bounded by roadside hedgerows to the west and south.
28. The layout of the proposed dwelling would be rectangular and positioned adjacent to the unnamed road. A detached garage would be sited to the east of the proposed dwelling and a new access would be created within the existing roadside hedge. The planning application form indicates that the dwelling would have three bedrooms and, although scale and appearance is reserved for subsequent approval, the Agricultural Appraisal/Design and Access Statement indicates that the dwelling would be two-storeys in height and would be constructed of traditional building materials in keeping with other properties in the area.
29. The proposed dwelling would be viewed against the backdrop of the rising hillside which would reduce its prominence. Views of the proposed dwelling would be limited when travelling along the B4396 due to the height of the field boundary hedge and its proximity to the road. The unnamed road is narrow and is bounded on either side by hedgerows that largely restrict views of the

appeal site. While the proposed new access could enable a view of the proposed dwelling when travelling along the unnamed road, this would be fleeting.

30. I acknowledge that part of the hedgerow fronting the unnamed road would be removed to achieve the necessary visibility splays. However, the submitted drawings indicate that a new hedgerow would be planted 1m behind the visibility splays and therefore any view of the proposed dwelling would be temporary. Furthermore, matters such as the height and species of hedgerow to be planted and the timing of the planting could be secured when considering the reserved matter of landscaping. This could ensure that the proposed dwelling would be appropriately screened from an early stage.
31. The proposal is for an isolated dwelling in the countryside and therefore its siting away from other buildings could be acceptable if it can be demonstrated that it would meet an exception to development in the countryside. However, an essential need has not been demonstrated to justify the provision of an isolated dwelling in the countryside. Therefore, the proposed development would result in an unacceptable sporadic and isolated form of development that would erode the spaciousness of the countryside.
32. In reference to the second main issue, the proposed development would have a detrimental effect on the character and appearance of the surrounding area. It would therefore conflict with Policies CS5, CS6, and CS17 of the CS and Policy MD2 of the DP which, amongst other things, seek to ensure that development proposals are on appropriate sites which maintain and enhance the countryside vitality and character. It would also conflict with the SPD, and the Framework that seeks to ensure that developments are sympathetic to local character and landscape setting.
33. The Council's decision notice also references CS Policies CS4 and CS11, LP Policies MD1, MD7a and MD12 and the SPD. However, these policies are not directly relevant to this main issue and are therefore not applicable.

Other Matters

34. I have been directed to evidence that the appellants are recognised on a regional basis and have worked on a number of initiatives to benefit the dairy industry. However, these do not outweigh the harm I have identified.
35. A completed and signed Section 106 Agreement ('the s106') was submitted after the adjournment of the Hearing that sets out the occupational restriction of the proposed dwelling and a restriction preventing the creation of additional internal floorspace. However, as I am dismissing the appeal on other substantive issues, it is not necessary for me to look at it in detail.

Conclusion

36. For the reasons given above and having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr C Lawson	Planning Agent – Forge Property Consultants
Mr N Blackburn	Planning Agent – Kite Consulting
Mr B Jones	Appellant
Mrs B Jones	Appellant
Mr M Jones	Appellants' son

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Mullineux	Planning Manager – Shropshire Council
Mr J Shaw	Principal Planning Officer

DOCUMENTS

1. Email dated 5 September 2023 from Council's solicitor to Mr P Mullineux regarding the planning obligation.
2. Email dated 12 September 2023 from the Council's solicitor to Mr P Mullineux regarding the planning obligation.