The Planning Inspectorate

Appeal Decision

Hearing held on 14 November 2023

Site visit made on 14 November 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/A0665/W/23/3320926
The Old Smithy, Fox Covert Lane, Picton, Chester CH2 4HB

- 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 Phil Wakeling against the decision of Cheshire West and Chester Council.
- The application Ref 22/00896/FUL, dated 1 March 2022, was refused by notice dated 6 February 2023.
- The development proposed is permanent agricultural workers dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant submitted 2023 financial accounts. All parties have had the opportunity to view and comment on these accounts, and I consider they are pertinent to my determination of the appeal. I am satisfied that no-one would be prejudiced by me accepting these accounts.

3. At the Hearing, the appellant sought to submit two new documents which related to a letter from the bank regarding a loan and a letter from the previous accountant. These documents were submitted as part of a previous planning application. However, the development relating to the previous application was different to the scheme before me. I do not have all the information regarding that planning application and whether there were comments relating to these documents. I cannot be sure that nobody would be prejudiced by my consideration of these documents and so I am disinclined to consider them as part of this appeal. In addition, there were no exceptional circumstances as to why the evidence had not been submitted earlier and I do not consider that these documents add further weight to the case.

4. A signed and dated s106 was provided after the Hearing, with my agreement.

Main Issues

5. The main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

   - The effect of the proposal on the openness of the Green Belt.

- Whether there is an essential need for a dwelling to accommodate a rural worker, having regard to the financial soundness of the enterprise.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (2015) (LPP1) requires restrictions to development within the Green Belt to apply in line with the Framework. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Under section a) of that paragraph a new building for agriculture would not be inappropriate.

7. Whilst the dwelling would support an agricultural enterprise, the building would be primarily intended for residential use. The proposed dwelling would be a domestic residence within agricultural land rather than a building in use for agriculture. Consequently, the development would not fall under any of the listed exceptions and would be inappropriate development in the Green Belt, having regard to the Framework and Policy STRAT9 of the LPP1.

Openness

8. Paragraph 137 of the Framework confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

9. The appeal site currently contains a temporary dwelling which, spatially and visually, impacts the openness of the Green Belt. The site is visible from Covert Lane, but views of the site are to a degree restricted by the fencing. The wider site also contains agricultural buildings.

10. The proposal would have a visual and spatial impact on the Green Belt. This is because it would introduce a permanent building, which would be larger than the existing temporary dwelling, and the development would be visible from public vantage points.

11. Consequently, the development would result in modest harm to both the spatial and visual openness of the Green Belt. As such, the proposal would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.

Essential need

12. Paragraph 80a) of the Framework sets out that decisions should avoid the development of isolated homes in the countryside unless 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. Within the Green Belt and in the countryside development of new housing is restricted through LPP1 Policy STRAT9 to that which requires such a location. Policy DM25 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LPP2) allows proposals for new

permanent essential rural workers dwellings where all eight of its specified criteria are met.

13. The farming unit centres around a calf rearing enterprise, and also generates income from sheep and hay making. The main parties agree that there is a clear established functional need for a full-time primary worker to live permanently at the site. Furthermore, they agree that given the requirement for specialist close management and care, the functional need could not be fulfilled by another existing dwelling on or near to the site, or any other existing accommodation in the area which is suitable and available for occupation by the worker(s) concerned. In this case, technology would not adequately monitor the livestock, and based on the evidence provided, I see no clear reason to disagree with these conclusions.

14. This main issue relates to criteria 3 of Policy DM25 of the LPP2. This requires that the unit and the rural land based activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a prospect of remaining so.

15. The agricultural enterprise has been operating since around 2013. A temporary dwelling was granted planning permission in 2013[1]. A temporary dwelling can enable an enterprise to develop and to demonstrate its long-term viability. In 2018, permission was granted for an extension to the temporary accommodation for a further three years[2]. The Council acknowledged in that case that there had been a delayed establishment of the enterprise.

16. The unit has been established for more than three years, and the submitted accounts demonstrate that the unit has been profitable for at least one of them. The enterprise has benefited from a substantially extended period of temporary residential accommodation so it should now be clear whether a viable business has developed. Over the years, cattle movements have been variable, and the enterprise has not developed as previously projected, but I understand that this is in part because the enterprise has been impacted by COVID-19 and TB breakdowns.

17. At face value, it appears that the net profit of the enterprise is improving. The sales relating to beef, sheep, crop as well as hay and straw have been relatively constant. However, the financial information shows that one-off incomes, that typically would not occur in future years, have contributed to the net profits of the enterprise, for example relating to machinery sale, insurance claim and land sale. Although these incomes relate to the enterprise, they are essentially non-farming incomes.

18. Subsidies have also contributed to the net profit of the enterprise. The availability of farm subsidy is reducing year on year with the Basic Payment Scheme due to end in 2027.

19. The enterprise is not solely reliant on these incomes in isolation, but the net profit is substantially less once the one-off incomes and subsidy are deducted from the net profit. Whilst without these incomes the enterprise remains profitable, the level of profit is very low. Furthermore, the accounts show a trend that the net worth of the enterprise is declining.

[1] 13/03447/FUL
[2] 17/03270/FUL

20. The profit and loss accounts do not include wage costs. Instead, the balance sheets show drawings. The appellant highlights that drawings act similarly to a wage, and this is what the appellant lives on and personal living costs. They assert that this is typical for a small sole trader. The drawings figure over the years is similar to a Grade 6 agricultural minimum wage. Even if this is a typical way of accounting for a small sole trader, taking into account the net profits minus subsidy and minus one-off payments, the enterprise cannot sustain the drawings figures through the net profit of the business.

21. The labour assessment calculation sets out that the unit has a requirement of 2.27 standard man days (SMD). Thus, it is questionable whether the unit can successfully function in the long term with one person carrying out effectively two persons labour requirements. On this point, at the Hearing, the appellant highlighted that farmers work long hours and SMD is an average which is not always reflective of the number of people working at an enterprise. The Council agreed that SMD is not always reflective but highlighted it is a requirement of policy.

22. Mrs Huxford (the appellant’s partner) helps out on the farm but does not get paid by the enterprise. Payslips have been provided to demonstrate that Mrs Huxford has a full-time job elsewhere. It is reasonable that Mrs Huxford’s wage contributes to the household (rather than the enterprise). Whilst it may not be unusual for a partner to help on a small farm, it would suggest that the labour requirements of the enterprise are met by Mr Wakeling with the assistance of Mrs Huxford. Furthermore, the returned profits would not adequately remunerate the unpaid labour. These factors reinforce the uncertainty of the enterprise being able to financially function in the long term.

23. The appellant also confirmed at the Hearing that, in the future, their son plans to work at the enterprise and would take over the enterprise when the appellant retires. Whilst I agree that an additional person could help increase profit, I am not convinced that it would be to a level to be able to pay for their labour too.

24. At the Hearing, the appellant stated that the construction of the permanent dwelling would be funded through savings and a mortgage. They asserted that the mortgage repayments would be similar to a previous mortgage. Whilst that may be the case, a mortgage would be an additional financial expense to an enterprise making a marginal profit.

25. To summarise, the enterprise has been established for some time and is making a marginal profit once one-off payments and subsidies are deducted from the net profit. The net profit does not include wage costs, and the drawings are more than the net profit when these one-off payments and subsidies are deducted. Furthermore, the enterprise would not be able to sustainably fund additional financial expenses, such as mortgage repayments or an additional worker, as it is only making a marginal profit. Accordingly, on the basis of the information presented, there is not a clear prospect of the enterprise remaining financially sound and profitable.

26. For these reasons, the enterprise is not financially sound and therefore there is not an essential need for a dwelling to accommodate a rural worker. The proposal would therefore result in an unjustified dwelling in the countryside, outside the identified settlement boundaries. Consequently, the proposed development would conflict with Policies STRAT1, STRAT2 and STRAT9 of the

LPP1, Policies DM19 and DM25 of the LPP2 and the Framework. These collectively seek, amongst other things, to locate new development in the most sustainable locations and ensure the creation of new housing in the countryside is restricted to set requirements to ensure that housing is not developed in unsustainable locations.

Other considerations

27. A demonstrated functional need for a rural worker dwelling associated with a viable rural land based activity, has the potential to represent very special circumstances. However, for the reasons given above, I have found that the enterprise is not financially sound and therefore there is not an essential need for a dwelling to accommodate a rural worker.

28. The proposed development does not conflict with other parts of Policy DM25 and would enable the enterprise to continue to support the welfare and safety of the livestock. Chapter 6 of the Framework supports a prosperous rural economy. The development plan also supports economic development and rural businesses. The construction of the dwelling would support a rural enterprise and would result in economic benefits from construction works and to the rural farming economy. Based on the evidence provided and given the small-scale nature of the proposal and enterprise, I give these benefits limited weight.

Green Belt Balance and Conclusion

29. As set out above, I have found that the proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. In addition, I have found that the enterprise is not financially sound and therefore there is not an essential need for a dwelling to accommodate a rural worker. The proposed development would therefore result in the creation of a new, permanent dwelling in the countryside.

30. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

31. I give limited weight to the benefits of the scheme. When drawing this together, the other considerations advanced in support of the appeal do not clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the scheme would conflict with Policy STRAT9 of the LPP1 and chapter 13 of the Framework, which seek to protect the Green Belt, and the proposed development would amount to inappropriate development in the Green Belt.

32. A signed and dated s106 has been provided. This would prevent the size of the agricultural holding from being reduced, would prevent the identified agricultural buildings from being removed, ties the operational need to the holding, and restricts the occupancy of the dwelling. Given my findings in relation to the main issues, I have not considered this matter further as it would not be determinative to my decision. The appeal is to be dismissed on other substantive issues and whilst a s106 has been submitted, it is not

necessary to look at it in detail, given that the proposal is unacceptable for other reasons.

33. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phil Wakeling	Appellant
Mrs Linda Huxford	Appellant's partner
Ms Olivia Starkey	OS Planning
Mr James Parton	Rostons
Ms Claire Carman	CJ Carman

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ben Greenwood	Senior Planning Officer
Ms Lyndsay Shinner	Senior Planning Officer

INTERESTED PERSONS:

Mr George Derby	Local Resident
Mr Richard Oliver	Local Resident

Documents submitted at the Hearing:

Letter from the bank
Letter from the previous accountant

Document submitted after the Hearing closed:

Completed Section 106 agreement