



Appeal Decision

Hearing held on 25 June 2024

Site visit made on 25 June 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2024

Appeal Ref: APP/R0660/W/23/3334916

Holly Brow, Hollyhurst road, Marbury, Wrenbury SY13 4LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Clare Thomas against the decision of Cheshire East Council.
 - The application Ref is 22/3218N.
 - The development proposed is described as 'application for an essential worker dwelling in association with equestrian stud business.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies PG1 and PG2 of the Cheshire East Local Plan - Local Plan Strategy 2010-2030 - dated July 2017 (the CELP) are not cited within the reasons for refusal on the decision notice. However, during the hearing, the main parties agreed that these policies provide a context for CELP policy PG6. The main parties also agree that paragraph 84 of the National Planning Policy Framework (the Framework) is relevant to this appeal.

Main Issues

3. The main issues are;
 - whether there is an essential need for a dwelling to accommodate a rural worker, with regard to local and national development strategies for housing; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Development strategy

4. The appeal site comprises a small portion of a larger field enclosure, which is located outside of and remote from any settlement boundaries as defined within the development plan. As such, for planning policy purposes it is deemed to be within the open countryside.
5. Together, CELP policies SD2, PG1, PG2, and PG6, form part of an overall development strategy for development within the district. They generally seek to direct most new development to those locations that are accessible by means other than private car, and which contain the widest range of services

and facilities. In open countryside locations, and with some stated exceptions, CELP policy PG6 states that only development that is essential in connection with certain purposes, including uses that are appropriate to a rural area, will be permitted.

6. Policy RUR3 of the Cheshire East Local Plan - Site Allocations and Development Policies Document¹ (the SADPD) relates to agricultural and forestry workers dwellings. As well as requiring compliance with other policies within the development plan, this policy indicates that essential rural workers dwellings in the open countryside will be permitted where they would support agricultural and forestry enterprises. However, this is only where all the criteria in section one of the policy would be met. These include requirements to demonstrate that there is a functional need for a full-time worker in their primary employment to live permanently at the site. Section 2 of policy RUR3 then confirms that a functional need will only exist if it is essential for one or more workers to be readily available at most times of the day and night.
7. Paragraph 84 of the Framework states that isolated homes in the countryside should be avoided unless at least one of a closed list of circumstances would apply. The first such circumstance is where there is an essential need for a rural worker, to live permanently at or near their place of work in the countryside.
8. Referring to rural workers, paragraph 84 a) of the Framework is wider in scope than SADPD policy RUR3. Nevertheless, paragraph 84 a) and policy RUR3 are broadly consistent with each other, as they both seek to restrict rural housing unless stated exceptions apply. As such, and notwithstanding that the scheme has been progressed based on the need of an equestrian business, the criteria within policy RUR3 continue to be relevant.
9. At the hearing the main parties agreed that the use of land in association with an equine business is an appropriate use of land in a rural area. However, it was also agreed that if the essential need for a dwelling on the site to accommodate a rural worker could not be demonstrated, then the scheme would conflict with local and national development strategies for housing.
10. The appellant orally advised that the main business function undertaken at Holly Brow is the breeding of foals, and that she has no employees. While the number of horses kept at Holly Brow clearly fluctuates, at the time of the hearing, the appellant advised that 16 horses were being kept, which comprised 2 stallions, 8 mares, and 6 foals. I was also advised that 7 foals had been delivered this year, and that no further foals are expected. There is nothing in the evidence to indicate that the number of horses kept, or foals born at Holly Brow regularly exceed these numbers.
11. The appellant verbally advised that all the horses currently at Holly Brow, bar one which is kept as a riding horse for the appellant's personal use, form part of the equine stud business. Furthermore, from a combination of the written and oral evidence, it is understood that the appellant typically spends at least 5 hours a day at Holly Brow tending to the horses and managing the property, but this can increase to up to 24 hours a day. It is clear therefore that the amount of time spent on-site varies, and does not always amount to a person being on-site throughout most of the day.

¹ Cheshire East Council - Cheshire East Local Plan - Site Allocations and Development Policies Document - 2022

12. The written evidence suggests that the gestation period for horses can be quite variable. However, the appellant verbally advised that it is usually between 340 and 350 days. Ms Thomas also indicated that breeding is actively managed to avoid foals being born before March or after July in any year and that her foals are normally born between mid-March and the beginning of July. On this basis, foaling which takes place over a few months in the Spring/summer, is not a year-round occurrence.
13. The appellant verbally contended that very young foals are particularly susceptible to harm caused by changing weather, and that they may need rugs to be changed, added, or removed at short notice. She also indicated a need to be present while mares are labouring, to check that the labour is progressing normally, and to intervene if necessary. Moreover, the letter written by Sophie Harding, an Equine Vet, confirms that there have been a number of foaling emergencies at Holly Brow, as well as complications in foaling mares which have required constant monitoring. For these reasons, and to minimise the risk of complications that could potentially lead to serious harm or even the death of foaling mares and very young foals, I am satisfied that there is a need for a person to be readily available on-site for most of the day and night around the times that the mares are expected to foal, and in the first couple of months following foaling.
14. However, the appellant contends that a year-round residential presence is required, to enable the early identification and response to incidents such as horses breaking out of enclosures, injury, and illness. I have no reason to doubt the appellant's assertion that horse deaths have tragically resulted from injuries sustained on the holding. I agree that an on-site presence would make it more likely that escaped horses could be captured and returned to a safe and secure enclosure before any harm would be caused. However, subject to a secure high-quality fencing system being provided and suitably maintained - which is not solely reliant on electric fencing, it is highly unlikely that horses would escape, and subsequently injure themselves or other horses. Furthermore, while accepting that quick identification of injury and illness is desirable from an animal welfare perspective, a person being available on-site at most times of the day and night would not prevent such occurrences.
15. Routine day-to-day tasks such as the checking and feeding of horses, the checking of fences, and the maintenance of the property would not ordinarily require a person to be available at most times. Moreover, I have no reason to doubt that other non-standard or less frequent tasks (which do not relate to foaling or the care of young foals), such as semen collection, would ordinarily take place during the daytime. Nevertheless, I accept that there are instances where it would be necessary to tend to a horse or the herd during the night, early in the morning and/or late in the evening. However, other than when foaling and the period soon after, I am unconvinced that such instances would be more than occasional.
16. The appellant currently lives in Nantwich, and it was indicated that it usually takes her 12 minutes to drive between her home and Holly Brow. This is not a long journey. However, even if suitable alternative dwellings are available that are closer than Nantwich, the provision of a dwelling on the appeal site would undoubtedly be more convenient for the appellant. It would also make the running of the enterprise more efficient. This is because the need for the appellant to undertake repeated trips between her home and Holly Brow would

be removed. Nevertheless, these considerations, do not amount to an essential need for a year-round residential presence on the appeal site to support a rural business.

17. Evidence demonstrating that one insurance company would require somebody to live at the site to provide insurance cover for a stud business has been provided. However, the information/parameters leading to this insurance company's response have not been provided. During the hearing, the appellant indicated that several other insurance brokers have declined to insure her business because of the absence of a permanent residential presence. Nevertheless, in the absence of compelling evidence to substantiate this, only limited weight is accorded to this consideration. I accept that the lack of insurance has prevented the appellant from providing a 'covering' service for visiting mares, as a means of expanding the business. However, even if such a service were to be provided, I have been provided with no reason to conclude that this would require a person to be available at most times throughout the year, or, that the viability of the business is at risk because this service is not provided.
18. I do not doubt that there have been occasional thefts from the property, which have resulted in the loss of electric fencing and a horse trailer. While the presence of a dwelling may reduce the risk of theft or harm to trespassers from on-site horses, I am unconvinced that other deterrents such as signage and prominently positioned security cameras, would not have a similar effect.
19. Limited accounting information has been provided in respect of the stud business for the years 2019-2020 to 2021-2022. During the hearing, the main parties agreed that the written account evidence showed a profit was made in each of the 3 years up to and including 2021-2022. However, despite the content of Sophie Harding's letter dated July 2022, no non-routine vet costs are specified in the outgoings in these years. Moreover, there is a considerable discrepancy between the price the appellant verbally indicated she paid for her stallion known as Donny, and the associated amount indicated on the 2019-2020 outgoings. For these reasons, I am not confident that the written outgoings accurately reflect those encountered by the business, or that profits were indeed made in these years.
20. Furthermore, while an extract of an HM Revenue & Customs document relating to self-assessment for the year ending 5 April 2023 shows the horse breeding business turnover, it does not include any details of costs. As such it does not demonstrate that the business was profitable that year either. During the hearing, the appellant advised that some income has been derived from stud fees associated with off-site artificial insemination, via mail order type arrangements in 2023 and 2024. However, as no recent financial records have been provided in respect of the 2023-2024 year or later, I cannot establish that this additional service has made the business profitable.
21. Moreover, during the hearing, the appellant advised that no wages or salaries have been taken from the equine stud business, as any profits made had been reinvested in it. Although the appellant indicated that her income is derived from breeding dogs at her home in Nantwich, she later indicated that in 2023 approximately half of her employment related to the equine stud business and half was from dog breeding. I have no reason to doubt the appellant's verbal assertion that the time incurred running the equine business far exceeds that

associated with dog breeding. However, for the reasons given, I have been unable to establish that the equine stud business provides the appellants primary employment, or that it generates a need for a year-round full-time equivalent working presence.

22. Furthermore, it has not been demonstrated that the business has or is financially capable of supporting a full-time worker in their primary employment. In the absence of a compelling business plan, I am also unconvinced that the business is likely to be able to support a full-time worker in their main employment in the future.
23. During the hearing it was requested that consideration be given to granting a temporary permission if it were to be concluded that the business cannot currently support a full-time worker in their main employment. Even if I were to do this, no essential functional need for the dwelling has been demonstrated, and as such the allowance of such a scheme would not be justified.
24. I appreciate that the current caravans on the site are in a poor state of repair. However, these could be replaced with another caravan/s in better condition, which would provide more suitable and comfortable accommodation for overnight stays.
25. For the reasons given above, in respect of local and national development strategies for housing, there is not an essential need for a dwelling on the appeal site to accommodate a rural worker. Consequently, in respect of this main issue, the development would conflict with policies PG1, PG2, PG6, and SD2 of the CELP, and policy RUR3 of the SADPD. It would also conflict with paragraph 84 of the Framework. CELP policy SE1, which is a design policy, is not relevant to this main issue.

Character and appearance

26. The appeal site forms part of a larger roadside field enclosure (the field). It is within a part of the countryside that mainly comprises undeveloped fields interspersed with sporadic buildings and small groups of buildings. It forms part of the Cholmondeley, Marbury, and Combermere Estatelands landscape character area (LCA) - as defined within the Cheshire East Local Landscape review document dated 2018. At the time of my site visit, the field contained; a short access track; 2 modestly proportioned double stable buildings; 2 small mobile caravans; an outdoor riding arena; a few very small sheds; and grassed paddocks separated by electric fencing. Small areas of the field were also in use for external storage purposes related to the equestrian use of the site.
27. Distinctive characteristics of the wider area that the appeal site forms part of include; a gently undulating topography; fields separated by hedgerows; roadside trees; and, occasional sporadic farmsteads and dwellings. Notwithstanding, the business use, and the presence of some existing structures on the appellant's land at Holly Brow, the land shares several of these distinctive characteristics.
28. Furthermore, both the appeal site and the land close to it, sit within a picturesque and tranquil rural setting, which is representative of some of the special qualities of the LCA. While the caravans on the site appear to be in a poor state of repair, they are not visually prominent. Furthermore, based on

the evidence and my own observations, the existing equestrian use of the field, is not detrimental to the tranquillity of the area.

29. Although not immediately adjacent to the stables, the proposed dwelling would be constructed close to the arena, and fairly close to the vehicular entrance to the site. It would also be within sight and sound of the stable buildings. As such, it would be well related, both physically and functionally to the existing development within the field.
30. Clear views of the dwelling could be secured from Hollyhurst Road (the road) through a gateway that is set back from the road. However, when travelling past the site along either the road or the public right of way adjacent to the field, only passing glimpses of the parts of development would be possible. This is because of the intervening presence of large roadside trees and tall, thick, and well-established hedgerows - none of which are proposed to be removed or cut back. Furthermore, even if parts of the development would be visible in longer views from the railway line and beyond, it would not be prominent or harmful in such views. Instead, in both longer and shorter views, the dwelling together with the other development within the field, would read as a sporadic small group of buildings and development, such as is typical within the local landscape.
31. When travelling along the length of the road, the visible buildings are of a variety of types, sizes, and styles, and they incorporate a range of construction materials. They are also positioned at various distances from the road. Furthermore, and while not readily visible from the road, I understand that several cabin-type structures close to it, are available for holiday use. Therefore, even if there are no other log cabin-style dwellings in the area, the proposed development would not be incongruous, in terms of either its design, siting, or construction materials.
32. Even if the removal of the on-site caravans could be secured by the imposition of an appropriately worded condition, their removal as part of the development scheme, would have a neutral effect on the character and appearance of the area. This is because of their diminutive size; their location close to the hedge and under the canopy of a large tree; their position amongst other structures; and their resultant lack of prominence.
33. For the reasons given, the proposed development would not cause harm to the character and appearance of the area. Consequently, in respect of this main issue, it would comply with policies SE1 and SD2 of the CELP, and policies GEN1 and RUR3 of the SADPD. Collectively these policies seek to prevent development that would unacceptably affect the amenity and character of the surrounding area or landscape. It would also comply with the parts of the Framework that seek to ensure development; protects valued landscapes; recognises the intrinsic character and beauty of the countryside; and is sympathetic to local character.

Other matters - isolated

34. My attention has been drawn to an appeal related to land at Tipulo Stud², which permitted the stationing of a static caravan for residential use. However, that site was in a different part of the country with a differing planning policy

² Appeal ref APP/A1910/W/18/3203796

context. Furthermore, the Inspector was satisfied with the projections presented in respect of the development of the business and found that the need for the dwelling related to an equestrian and forestry enterprise. Due to the differences in the schemes, this decision does not therefore lead me away from my previous findings.

Conclusion

35. The proposed development would not cause harm to the character and appearance of the area. Notwithstanding this, it would conflict with the local and national development strategy in respect of housing. As such, it would conflict with the development plan as a whole.
36. There are no material considerations, either individually or in combination, that outweigh the harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms C Thomas	Appellant
Mr E Roberts	Civitas Planning Limited (Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mrs G Horton	Senior Planning Officer, Cheshire East Council
Mr J Cooper	Planning Officer, Cheshire East Council