



Appeal Decision

Hearing held on 9 July 2024

Site visit made on 9 July 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/E3335/W/23/3333331

Land at 355763 143568 Upper Wellesley Lane, Dulcote, Wells, Somerset

- 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 Professor AJ & Dr KJ Andrew Bradley, Quality Milk Management Services Limited against the decision of Somerset Council.
 - The application Ref is 2019/1577/FUL.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Professor AJ & Dr KJ Andrew Bradley, Quality Milk Management Services Limited against the decision of Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

3. The address in the banner heading above has been taken from the appeal form and decision notice as this more clearly identifies the site than that given on the application form.
4. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed.
5. At the Hearing the appellant submitted a signed and dated unilateral undertaking (UU) as a deed of planning obligation. This effectively commits the appellant and any subsequent owners to retaining the proposed dwelling in the same ownership as the remainder of the land at the site, to manage the land to at least the standard outlined in Countryside Stewardship Agreement Number 624743 and not to permit occupancy of the dwelling unless and until a package treatment plant has been installed on site and is operational.
6. During the Hearing the appellant also submitted a late document showing historic and aerial photographs of the site (as detailed at the bottom of this decision letter). Given that some of the photographs had already been provided within other documents forming part of the appeal, and that the Council had received a copy and confirmed at the Hearing that they were happy for it to be submitted, and as the document does not fundamentally alter the proposal, no

parties would be prejudiced if I take this information into account. I have therefore taken this document into consideration in my decision.

Agreed Matters

7. Before the Hearing the parties submitted a statement of common ground. This describes the proposed site, application plans, details the reasons for refusal, planning history, planning policy context and indicates matters agreed and not agreed. Those not agreed reflect the 3 reasons for refusal.
8. Before the hearing a revised list of plans was submitted by the appellant that had been agreed by the Council. This identifies differences between the plans submitted as part of the planning application and those listed on the Decision Notice. The revised list of plans reflects the plans before me.

Main Issues

9. There is no dispute between the parties that the site lies outside of any recognised settlement or Development Limit within the open countryside. Accordingly, the main issues are:
 - whether there is an essential need for a dwelling to accommodate a rural worker to live permanently at the appeal site,
 - the effect of the development on the integrity of the Twinhills Woods and Meadows Site of Special Scientific Interest, and
 - the effect of the development on the character and appearance of the area.

Reasons

Background

10. The appeal proposal seeks permanent residential accommodation to support a rural enterprise.
11. At the Hearing, the appellant explained that the appeal site is currently home to approximately 108 lambs and sheep with a further 22 at the Quality Milk Management Services Limited (QMMS) premises approximately 6 miles from the appeal site. The appellant further explained that at present, the appeal site provides income from the stewardship of the land and from the buying and selling of sheep and that the number of sheep under a livestock agreement with Natural England could rise to over 200.
12. Due to the location of part of the appeal site falling within part of the Twinhills Woods and Meadows Site of Special Scientific Interest (SSSI), the stewardship of the land is guided by a Higher Tier Countryside Stewardship Agreement (the Stewardship Agreement) with Natural England. The main objectives of the agreement include the restoration of neglected grassland areas back to more species rich grassland through a programme of scrub clearance and re-introduction of grazing and to manage the very species rich hay meadows and to maintain/enhance the diversity of the land. This will help to change the current unfavourable status of the SSSI.
13. The proposed dwelling would help to support this management of the land, but also enable the appellant to carry out field based observational research. The appellant explained at the Hearing that due to the significant labour input and

costs related to the research, it requires living on the site. The appellant confirmed at the Hearing that without the dwelling, the research could not take place. The appeal evidence also states that the appeal site had been chosen due to its unique nature of having zero exposure to artificial fertilisers, having been minimally stocked with a history of non-intensive management and therefore unlikely to harbour pathogens or parasites.

Whether essential need

14. Core Policy 1: Mendip Spatial Strategy of the Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies (December 2014) (LP) sets out the spatial strategy for the area. It states that to ensure the most sustainable pattern of growth, the majority of development will be directed to the five principal settlements with development tailored to meet local needs in Primary Villages, Secondary Villages and other hamlets and villages and strictly controlled in the open countryside as set out in Core Policy 4. The appeal site lies in the open countryside.
15. LP Core Policy 4: Sustaining Rural Communities supports occupational dwellings in rural locations, where there is a proven and essential functional need to support agricultural, forestry and other rural-based enterprises as set out in Development Policy 13.
16. In this respect, LP Policy DP13: Accommodation for Rural Workers (1a) supports proposals for permanent or temporary accommodation outside of defined Development Limits which are necessary to support rural enterprises subject to five criteria. The criterion include that it can be demonstrated that the dwelling and its proposed location are essential to support or sustain the functioning of the enterprise; there is a need for permanent occupation which relates to a full-time worker or one who is primarily employed by the business; all alternative accommodation options have been explored; and, the size of the dwelling is commensurate with the established functional requirement of the enterprise. I will deal with criteria v) related to siting and design below under the third Main Issue.
17. LP Policy DP13 1.b) states that for new rural enterprises, in the first instance the Council will only grant permission for temporary accommodation for a 3 year period. In such circumstances, applications for temporary accommodation will be supported where the nature of the accommodation means it can be dismantled or removed, and where clear evidence, through a business plan or other assessable proposal, shows a firm intention and ability to develop the enterprise on a sound financial basis.
18. With regard to permanent rural workers' dwellings, LP Policy DP13 2. states that the Council will support proposals where the enterprise has been established on the unit for at least three years; business accounts for the preceding 3 years indicate that at least one of those years has been profitable, and that the enterprise is currently financially sound and has clear prospects of remaining so; with the five criteria for permanent or temporary accommodation continuing to be satisfied.
19. In light of the above policy context, it is necessary to establish whether the proposal comprises an existing or new rural enterprise.

20. In this regard, in light of the farming of the site and stewardship of the land, I find that the current activities on the site represent an existing rural enterprise. However, given that the proposed field based observational research has not commenced, and would not commence without the dwelling, this element of the proposal represents a new enterprise. As a result, and as the appellant later stated at the Hearing, the proposal represents an enterprise within an enterprise. Or more simply put, the proposed field based observational research is a new enterprise that would sit alongside and complement the existing enterprise.
21. Given this and given the appellant's case put forward as part of the appeal that it is a combination of the existing enterprise and new enterprise that would result in a requirement for permanent on-site accommodation, I find that the proposed field based observational research element of the proposal should be considered as a new enterprise under LP Policy DP13.
22. Returning to the existing enterprise, I have had regard to the size of the holding, distance of the appeal site from the appellant's home and office, journey times/travelling hours and convenience of being on site to manage the sheep, particularly during the lambing season when losses can occur, and following birth for feeding. I have also had regard to the high number of hours required to carry out the stewardship of the land given its condition and steep nature in parts. Nonetheless, given the small size of the holding, limited number of sheep, narrow lambing season, and the stewardship of the site not necessitating the permanent overnight occupation of the site, I am not satisfied that the existing rural enterprise in itself provides an essential need to live on site. Furthermore, and although it would be more convenient for the appellants to live on site to save time travelling to the site on a daily basis, they currently live within a fairly close distance, and it is reasonably likely that living on site would necessitate similar travelling time to access most required services and facilities.
23. With regard to the new enterprise, as outlined above, 1a) to LP Policy DP13 details five criteria that should be demonstrated to support proposals for permanent or temporary accommodation in the countryside. In relation to the first two criteria, at the Hearing the appellant detailed an essential need for occupation on the site that relates to a full-time worker. Compelling evidence was put forward detailing the appellant's knowledge, expertise and history related to agricultural consultancy and research, relationship of the proposal to the work of QMMS and commitment to the site with investment in a barn, purchase of equipment and stewardship of the land to date.
24. Professor Bradley outlined three initial studies that they wished to carry out on the site related to addressing and removing infection/disease and mortality in ewes, sheep and cattle that could not be carried out on existing farms. Each of the three studies would be very time intensive and necessitate living very close to the animals, in order to study their health and behaviour. In some instances, on-site presence would be necessary to ensure lambs can be caught at birth before they touch the ground so that feet can be swabbed, with further swabbing every 4 hours on a daily basis initially. There would also be a need for on-site presence to ensure that people are present at the birth of twin calves so that they can be separated and studied in different environments, and to study lamb behaviour and mortality to better understand the benefit of hedgerow cover. The appellant provided oral evidence at the Hearing related to

the very high cost of the failure of such studies and a desire to introduce other sheep that lamb all year round alongside year-round studies of cows. Furthermore, the appellant's evidence is supported by letters from various businesses and Universities detailing the benefits from the studies, benefits of using the appeal site given its location and ground conditions and need to live on site to make the studies successful.

25. With regard to the third criteria, and although the Council stated at the Hearing that there could be existing accommodation available close to the appeal site, there were no alternative available options put forward by the Council. Furthermore, the appellant re-iterated the need to live on site to prevent delays in getting to the site that would undermine the intensive nature of the studies. The appellant stated at the hearing that all year-round studies make the use of seasonal temporary overnight facilities unviable with a lack of known alternative accommodation nearby. I am persuaded by their contention in these regards. With regard to the fourth criteria, I have little evidence before me demonstrating that the size of the dwelling would not be commensurate. I further note the comments from the appellant with regard to the accommodation being for their family who are employed by QMMS and the property enabling other academics, researchers and vets to aid and observe the studies.
26. As a result, I agree that accommodation outside of defined Development Limits would be necessary to support the new rural enterprise.
27. Despite this need, paragraph 6.122 and LP Policy DP13 1.b) state that for new enterprises, in the first instance the Council will only grant permission for temporary accommodation for a 3 year period. As the proposal is for permanent accommodation it is contrary to this part of the policy. As the proposal is not for temporary accommodation, criterion b) i) and ii) are not relevant.
28. Furthermore, Policy 13 2. states that the Council will support proposals for permanent rural workers' dwellings where the enterprise has been established for at least three years, with business accounts for the preceding 3 years indicating that at least one of those years has been profitable and the enterprise is currently financially sound and has clear prospects of remaining so. Although QMMS has been highly successful for 19 years with the existing enterprise having been on site for over 3 years, the new rural enterprise proposal has not been established and as such there are no available accounts for this.
29. The Planning Practice Guidance (PPG)¹ states that considerations that may be relevant to take into account when applying paragraph 84 of the National Planning Policy Framework (the Framework) in relation to isolated homes in the countryside for rural workers could include: 'in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period'.
30. While Professor Bradley explained at the Hearing that the three initial studies would initially last approximately 3 years and explained that it is very common for follow-on studies to arise from such studies, I have limited information demonstrating formal contractual arrangements securing these lines of work or

¹ Paragraph; 010 Reference ID:67-010-20190722

its profitability, or evidence of clear prospects of remaining profitable, in isolation of the wider work and success of QMMS to justify a permanent dwelling. Furthermore, while I acknowledge that QMMS has been highly successful, profitable and financially sound, this is not enough to indicate that the new enterprise in itself has reasonable future prospects when considered against LP Policy DP13 requiring this to be clearly demonstrated in relation to the new enterprise during a 3 year temporary period.

31. I have had regard to Dr Bradley advising at the Hearing that it would be difficult to find highly qualified academic employees to work or live on site in a temporary caravan. However, I have little other evidence in this regard and see no reason why such temporary accommodation for the appellant, and or other employees assisting with the research, could not be of a reasonably high standard.
32. I acknowledge that the occupation of the dwelling could be restricted by way of an agricultural occupancy condition. However, given that I have found that the current enterprise in isolation does not justify on-site accommodation, and given the need to demonstrate that the new enterprise would be financially sound with clear prospects of remaining so following a trial/temporary 3-year period, such a condition would not be appropriate. Furthermore, while the submitted UU would link the dwelling and management of the land to the standards in the Stewardship Agreement, it would not in itself necessitate or ensure the carrying out of the new enterprise.
33. It follows from the above that I conclude that an essential need for a dwelling to accommodate a rural worker to live permanently at the appeal site has not been demonstrated. As such, the proposal would conflict with LP Policy DP13, the purpose of which I have previously outlined above in relation to the spatial strategy for the area. For the same reasons, the proposal would be contrary to paragraph 84 of the Framework that states that decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

Effect on SSSI

34. The part of the appeal site where the dwelling is proposed to be located falls within the Twinhills Woods and Meadows Site of Special Scientific Interest (SSSI).
35. LP Policy DP5: Biodiversity and Ecological Networks states that all development proposals must ensure the protection, conservation and, where possible, enhancement of internationally, nationally or locally designated natural habitat areas and species. It goes on to state that proposals with the potential to cause adverse impacts on protected and/or priority sites, species or habitats are unlikely to be sustainable and will be resisted.
36. At the Hearing, the Council stated that the harm to the SSSI would be very small but by virtue of the provision of a dwelling, for which there is no essential need, would result in a subsequent loss of grassland from the siting of the building.
37. I have however had regard to the letter from Natural England (NE) dated 20 October 2021 that states that following a site visit, the grassland where the

dwelling is proposed to be located does not meet the criteria for positive indicator species for grassland, has less than 10% wildflower cover and therefore NE are satisfied that it is not of SSSI notified feature quality. In light of this and given historical evidence of built form on the site, NE confirm that the location for the dwelling was unlikely to have held habitat of SSSI quality and considered of lower botanical quality and would have been included as it was 'site fabric'. NE go on to state that it is unlikely that the proposal, with mitigation would affect the overall integrity of the SSSI. The comments from NE are supported by the Council's Ecology Officer comments dated 27 February 2023.

38. It was confirmed by the appellant at the Hearing that no external garden space around the dwelling is proposed to minimise any effects on the SSSI. Furthermore, the UU submitted at the Hearing provides certainty that all of the land around the site in the appellant's ownership, including that outside of the SSSI, would be managed to at least the standards outlined in the Stewardship Agreement in perpetuity. This would secure the stewardship of the SSSI and wider area of land beyond the existing Stewardship Agreement and its end date of 2029. This would provide an enhancement to the wider area in accordance with LP Policy DP5.
39. I have had regard to the Council stating that the appellant has failed to demonstrate that the proposal could not be located on alternative sites outside of the SSSI. However, LP Policy DP5 does not require the consideration of alternative sites. Furthermore, the Framework at paragraph 186 and the British Standard for Biodiversity 'Mitigation hierarchy' referenced by the Council in its Case Officer Report do not require the consideration or assessment of alternative sites, particularly where no adverse effects, impacts or harm would result.
40. As a result of the above, given the existing built form on the site and subject to condition(s) to control the construction phase of the development and provide biodiversity enhancement should the appeal be allowed, the proposal would not result in the loss of valuable grassland, disturb species in the area and would ensure the protection, conservation and enhancement of the SSSI.
41. In conclusion in relation to this main issue, the development would not harm the integrity of the Twinhills Woods and Meadows Site of Special Scientific Interest. As such, the proposal would not conflict with Policy DP5 of the LP and Chapter 15 of the Framework.

Character and appearance

42. The appeal site falls within the Worminster Down & Launcherley Hill Special Landscape Feature. The Special Qualities of the Landscape Feature are defined within the Assessment of Special Landscape Features Document as comprising a woodland, particularly ancient, landform with avenues, clumps and belts of trees, ancient earthworks, artefacts of historic or cultural interest in a landscape setting and natural geological features.
43. At the Hearing, both parties stated that the immediate area comprises open pasture and woodland with some scattered agricultural, farm and residential buildings. This reflects the wider area as viewed at the site visit with the proposed location for the dwelling set back from Upper Wellesley Lane behind

existing planting close to existing structures and on a small plateau before the land rises steeply beyond.

44. The dwelling is proposed in a modern contemporary form partly set into the ground with a flat roof. The proposed dwelling would be separated from the nearby ancient woodland and trees on a part of the site of limited wildlife or species value with no known archaeological value or ancient earthworks or geological features of importance at the proposed location.
45. Due to the proposed location for the dwelling set back from the road behind planting on a small plateau, it would only be visible in a very limited number of views from Upper Wellesley Lane and Monarch's Way Long Distance Route. However, from these locations, and from the close and more distant Site Character Photo points A-K and Representative Photoviewpoints 1-9 in the appellant's Landscape and Visual Appraisal November 2023, the proposed dwelling would be partly screened by existing and proposed planting and would be viewed as a modest additional scattered built form. Furthermore, it would replace the existing structures on the site that have little architectural merit and do not contribute positively to the landscape.
46. I was advised by Mr Dunlop at the Hearing that the modern contemporary design was suggested by the Council following a pre-application enquiry. The flat roofed design and excavation into the ground would reduce the height and visual prominence of the building in the landscape. The dwelling would be finished in stone and timber panelling similar to the wider prevailing character of the area. There would be no outdoor garden space at ground floor level.
47. While I acknowledge that lighting, access across a field and activity associated with the site may draw more attention to the building and site than the existing structures, such activity and lighting would be limited. As seen from a restricted number of nearby viewpoints and from further away, it would not appear dissimilar to other nearby scattered development. Furthermore, there is already a tracked access across the field with such accesses not uncommon in rural areas.
48. LP Policy DP4 states that proposals for development that would significantly degrade the quality of the landscape will not be supported. Given the above, I do not find that the proposal would significantly degrade the quality of the landscape. Policy DP4 further states that development within Special Landscape Features will be determined with regard to their impacts upon their Special Qualities. In light of the above I find that the proposal would not harm the Special Qualities and I have very little evidence from the Council demonstrating harm to the Special Qualities with none specifically identified at the Hearing.
49. It follows from the above that I conclude that the development would not have a harmful effect on the character and appearance of the area. As a result, the proposal complies with LP Policies DP1, DP4 and DP7. Amongst other things, these seek to ensure that all development proposals contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district, be formulated with an appreciation of the built environment, not significantly degrade the quality of the local landscape, and support high quality design.

Other Matters

50. While there is some limited evidence that there was historically a dwelling on the appeal site, as this was some time ago, and in the absence of any permanent dwelling on the site at present, I give this limited weight.
51. Although the appeal site falls within the catchment of the Somerset Levels and Moors Special Protection Area and Ramsar site (SPA), I note that the parties agree that proposed mitigation put forward by the appellant demonstrates neutrality in terms of effluent outfall, and I have no reason to disagree. Schedule One to the UU submitted at the Hearing includes an obligation to provide a package sewage treatment plant to address outfall to protect the SPA although this could equally be secured by an appropriately worded condition.

Planning Balance and Conclusion

52. The development would be contrary to the local development strategy. The relevant policies are largely consistent with the Framework where it states that planning decisions should guide development towards sustainable solutions and avoid isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
53. There is no dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Given my findings in relation to the SPA and that I have also found above that the proposal, subject to conditions, would not have an adverse effect on the SSSI, matters related to habitats sites do not provide a clear reason for refusing the development proposed under paragraph 11d) i. of the Framework. As a result, paragraph 11d) ii. is engaged.
54. There would be benefits with regard to the provision of an additional sustainable dwelling adding to the supply and mix of energy efficient family housing, benefits from construction, potential for the creation of jobs, increased wildflower meadows, enhancement of the site beyond that covered by the Stewardship Agreement and potential for national benefits from and support for the appellant's research. However, given the scale of the proposal the benefits from the provision of one additional dwelling and from construction would be limited. Furthermore, any wider benefits from the appellant's proposed research and job creation need to be demonstrated through temporary accommodation to establish that it would be profitable and financially sound in accordance with LP Policy DP13. Finally, any benefits from increased wildflower meadows and the enhancement of the site beyond that covered by the existing Stewardship Agreement would be limited and would not in themselves justify a dwelling in an isolated location. Improvements to the area from clearing of a footpath through the site have already taken place and as such would not represent a further benefit.
55. I therefore find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
56. Although I have found no harm with regard to the effect of the development on the integrity of the SSSI or to the character and appearance of the area, an

essential need for a dwelling to accommodate a rural worker to live permanently at the appeal site has not been demonstrated. In my view, this is the prevailing consideration, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.

57. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Desmond Dunlop	Agent
Professor Andrew Bradley	Appellant
Dr Kate Bradley	Appellant
Matthew Bradley	Son of Appellant and employee of QMMS

FOR THE LOCAL PLANNING AUTHORITY:

Anna Clark	Team Leader – Somerset Council
Carlton Langford	Planning Officer – Somerset Council

DOCUMENTS submitted at the Hearing

1. Twinhills Site as Purchased June 2017 photos and plans.
2. Unilateral Undertaking by Quality Milk Management Services Limited and Andrew John Bradley and Katrina Jane Bradley dated 9 July 2024.