



Appeal Decision

Hearing held and site visit made on 24 July 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/C1435/W/24/3337769

Lynne's Organic Farm, Limekiln Forest Road, Eridge, East Sussex TN3 9LQ

- 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 Mr Jeremy Davis of Lynne's Organic Farm against the decision of Wealden District Council.
 - The application reference is WD/2023/1144/F.
 - The development proposed is the erection of a dwellinghouse to be used as accommodation for seasonal workers and holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the hearing the main parties agreed to the description of the development being taken from the application form. However, following the hearing and for clarity I have revised the description to include a reference to an act of development.
3. In November 2023 all designated Areas of Outstanding Natural Beauty (AONB) became National Landscapes and will be referred to as such in this decision.
4. A revised version of the National Planning Policy Framework (Framework) was published in December 2023. The Council referred to the revised Framework in their appeal statement and the appellant had the opportunity to comment on this at the hearing. I have referred to the revised Framework and used its paragraph numbering where relevant.
5. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework and made a written ministerial statement titled 'Building the homes we need'. Given that those parts of the draft Framework most relevant are not proposed to be amended no party's interests would be prejudiced by my decision to proceed without seeking comment on the draught reforms.
6. The Council is preparing a new Local Plan and I understand representations are being considered following consultation. However, given the early stage and potential for change in response to the consultation, I have given it limited weight.

Main Issues

7. The main issues in the determination of the appeal are:
- whether it has been demonstrated that there is an essential need for a seasonal rural workers' dwelling;
 - whether the proposed development would be in a sustainable location;
 - the effect of the proposed development upon the character and appearance of the area with particular regard to the High Weald National Landscape; and
 - the effect of the proposed development on trees, biodiversity and protected species.

Reasons

Essential need

8. Lynne's Organic Farm is an agricultural holding of around 38 acres which has a variety of existing buildings including a farmhouse, farm shop and barn. The farm has been operating for around 20 years and it produces organic fruit, vegetables, eggs and pork which are sold via the farm shop and to a limited number of wholesale customers. The Council confirmed that the existing farmhouse has an agricultural occupancy condition and the appellant provided little evidence to dispute this. The appellant and the Council do not dispute that the farm is located outside any defined development boundaries and in a countryside location. I see no reason to question this and consider, given its distance from the nearest settlement, the farm to be in an isolated location.
9. The Wealden Local Plan 1998 (WLP) and the Wealden Core Strategy Local Plan 2013 (WCSP) set out the Council's rural areas strategy and its approach to protecting and enhancing the countryside.
10. Saved Policy DC17 of the WLP provides further clarification regarding housing development and indicates that it will not be allowed outside defined development boundaries other than in circumstances where it conforms with other development plan policies. One such exception is set out in saved Policy DC2 of the WLP, which allows for new permanent dwellings for agricultural workers where proposals comply with five criteria. Criterion one requires proposals to have a '*clearly established existing functional need*'.
11. Paragraph 5.19 of the supporting text for this policy states that a '*functional test will be necessary to demonstrate that it is essential for one or more full time workers to be readily available to meet the established needs of the enterprise at most times, day and night, such as to provide for the proper supervision of agricultural process or livestock. It will not be sufficient that it is merely convenient or desirable to live on the holding*'.
12. The WLP and WCSP broadly accord with Paragraph 84 of the Framework which states that planning decisions should avoid the development of isolated homes in the countryside other than in certain exceptional circumstances. One listed exception is where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 84 of the Framework is supported by paragraph 10 of the Planning Practice Guidance (PPG) for 'Housing Needs of Different Groups' which sets out some considerations that are relevant in applying the policy.

13. As evidenced in the Assisted Production Statement dated 26 January 2024 (Assisted Production statement) the organic nature of the farm is labour intensive with tasks including planting, watering, pruning, weeding, strimming, mulching, crop protection, picking and washing for fruit and vegetable produce. For egg and pork produce the work includes regularly moving and maintaining livestock enclosures, providing feed and water, securing livestock at nighttime, and completing the required product quality controls. Other work includes the staffing of the farm shop, delivery of produce, manufacturing of a variety of food products for sale in the shop and general maintenance of the farm and its renewable power systems.
14. Two people permanently live and work on the farm and, due to their age and the higher manual input required, assistance is needed and obtained using volunteers. However, I understand that getting volunteers is challenging due to the long distances that many have to travel with London cited as an example. Accordingly, volunteers were only able to stay and assist for short periods and the appellant considers that providing on-site accommodation would mean volunteers could stay longer and provide more assistance.
15. While there were some seasonal peaks, due to the wide and varied range of farm produce undertaken including the preparation for the next season, work needs were regular and continual through the year. The reference to '*seasonal workers*' in the proposal's description was noted by the appellant as being misleading as volunteers were required all year round and not just seasonally. It was also noted that the farm did have emergencies with a variety of regular issues occurring through the winter months due to the exposed nature of the location and the appellant noted that having assistance at these times would have been beneficial.
16. Volunteers are used in preference to seasonal and permanent workers for economic reasons. The farm did not receive any grants or subsidies and employing paid workers was not affordable. Following problems securing volunteers, the appellant generally relied on friends, customers or enthusiasts who wanted to gain experience in organic farming. A form of bartering is used in lieu of remuneration where the appellant provided whatever the volunteers needed during their visits such as car pickups/returns and food.
17. The Assisted Production Statement indicated that by increasing assistance an estimated increase in blueberries and eggs sales of the order of £29,660 could be achieved. However, due to the significantly higher costs of organic livestock and feed, profit would be marginal and not sufficient to fund paid assistance.
18. No alternative accommodation options had been assessed by the appellant in any detail. When questioned about the use of temporary/seasonal accommodation such as a caravan or the use of existing offsite accommodation, the appellant indicated that a mobile home option would be visually less attractive and more difficult and costly to power using the proposed solar panel system. In relation to the use of existing accommodation, it was argued that this would not be economically viable as housing prices in the area were prohibitively high and the proposal's building costs would be significantly less. However, little substantive evidence was provided to show that alternative accommodation options would not be feasible.
19. Little reason was also provided as to why additional accommodation could not be provided either by the use of the existing farmhouse's spare bedroom or by

- modifying or extending the existing house. The appellant advised that the spare room is occasionally used by friends and family working on the farm but contended that use by unknown volunteers was not reasonable or appropriate. Regarding modification of the farmhouse, the appellant outlined that the intention was to self-build the proposal and argued this would be significantly less costly than completing modifications. However, cost comparisons were not presented to demonstrate this.
20. Other locations for the proposal had also been considered but were discounted due to their farming value, difficulty in providing services and not being very close to an existing access. The appellant further considered that locating the building elsewhere on the farm would have more of an adverse effect on the environment.
 21. Turning to the '*holiday let*' element of the proposal, it was confirmed that this was included to cover the periods when volunteers were not visiting the farm and the accommodation would be vacant. It was indicated that it would provide an additional income. The appellant advised that preference would be given to volunteers in using the proposed accommodation and saw little difficulty in managing this.
 22. It is evident that there is a need for assistance on the farm. However, the work the volunteers are undertaking, other than being more labour-intensive, is not dissimilar to normal farming practices that are completed through a standard working day. Little compelling evidence was presented to show that volunteers were required outside a standard working day. There is little justification that it is essential for the volunteers to be on the farm at most times, including day and night.
 23. I acknowledge the economic and viability reasons outlined at the hearing for the use of volunteers and how the proposed accommodation had been identified as the solution for improving assistance. However, the details presented in support of this were limited. The farm's sales, costs and profit were not fully provided to demonstrate that volunteers were the only viable option for meeting the assistance needs. Nor was it sufficiently shown that alternative accommodation options had been fully considered and found to be unavailable or uneconomical. Overall, it was not sufficiently demonstrated that the proposal was essential to support the volunteer assistance needs.
 24. Reference was made by the appellant to two nearby and larger farms which have two dwellings, but only a single form of farm production. It was argued that these farms were easier to manage on a day-to-day basis and had support from family members who lived on the farm as part of the farm succession. It was submitted that this type of farm succession and support was unavailable to the appellant. However, while this may be true, no evidence was submitted to demonstrate that the proposal was needed for farm succession. The examples are therefore not directly comparable to the appeal before me.
 25. It was clear at the hearing, that the '*holiday let*' element of the proposal was secondary to the volunteers' accommodation needs. Furthermore, little substantive evidence was presented to show the proposal would make an important contribution to diversifying and upgrading the tourist attractions and facilities in the area. As such I attach little weight to the benefit that this element of the proposal would provide.

26. Taking all the above into account, the appeal scheme fails to demonstrate that there is an essential need for a rural workers' dwelling. Consequently, the appeal scheme fails to comply with the provisions of saved Policy DC2 of the WLP, Paragraph 84 of the Framework and the guidance set out in the PPG.

Sustainable location

27. The appeal site is outside any defined development boundaries and in a countryside location. It is approximately 2 miles from Crowborough which is identified as a District Centre.
28. Policy SPO7 of WCSLP encourages reduction of the need to travel by car by concentrating development where it can most closely link to public transport opportunities and to travel by more sustainable modes of transport. This reasonably accords with Paragraphs 83, 108 and 114 of the Framework which seeks new housing developments promote sustainable transport modes.
29. While the farm does have a shop, and the appellant provides most of the requirements for visiting volunteers, other services, community, and retail facilities are distant.
30. Train and bus services were noted as being available in the area, but the use of these involves travelling a significant distance along Limekiln Forest Road which was noted by the Council as being in the order of 1.5 kilometres.
31. While the appellant may have walked on occasion to Crowborough and some volunteers have walked from the train station to the farm, that most volunteers typically either travel to the site in their cars or used the car pick up/drop off service from the train station the appellant provided. Due to the short-stay nature of volunteers, car trips to and from the farm are regular and daily in some cases. It was also noted that having arrived on the farm, as most volunteers were organic farming enthusiasts, they tended not to leave the farm during their visit.
32. From the evidence presented, due to the length, lack of a footpath, and narrow and unlit nature of Limekiln Forest Road, the attractiveness and desire for volunteers or tourists using the proposed accommodation to walk or cycle is likely to be limited. The proposed accommodation would therefore be highly dependent on car use.
33. Although it was suggested that having volunteers able to stay longer would reduce car trips to the farm, little evidence to support this was provided. Indeed, with the expectation that the proposed accommodation would increase the number of volunteers and allow tourists to stay, then car trips could well increase. Moreover, it is likely car trips would also increase through tourists visiting places of interest and other community, or retail facilities. This could also apply to longer-staying volunteers who would have more time available.
34. Whilst the appellant may use an electric car there is little compelling evidence provided to demonstrate that electric cars would be used widely, even if a charging point was provided.
35. For the reasons set out above, the proposed accommodation would not be in a sustainable location. It would be contrary to Policy SPO7 of the WCSLP and Paragraphs 83, 108 and 114 of the Framework.

Character and appearance

36. The appeal site is within the High Weald National Landscape (National Landscape), close to Limekiln Forest Road and in the woodland edge strip which separates the road from the farm's field area. There is also an existing gated access to Limekiln Forest Road nearby which is overgrown. The area is identified as Deciduous Woodland which is classed as a Priority Habitat.
37. Saved Policy EN6 of the WLP states that development in the National Landscape will only be permitted if it conserves or enhances the natural beauty and character of the landscape. It lists matters which will be considered, including landscape characteristics of the sub-areas identified in the High Weald landscape assessment and the High Weald Management Plan. Policy SPO1 of the WCSLP also states the distinct landscapes of the District including nationally designated landscapes will be protected and the Council will work with others to enhance and manage these. The objective of these policies is largely consistent with Paragraph 182 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. Paragraph 135 of the Framework also details that developments should be sympathetic to local character including landscape setting.
38. The proposal would be a single-storey, one-bedroom and open plan dwelling with a mono-pitched roof. A small lean-to would be included to accommodate the equipment for an off-grid power generation system. The dwelling would be constructed with materials to match the existing buildings on the farm including timber cladding. The existing access would be used for access and parking. It was highlighted that the appeal site was selected due to its limited farming value, lack of tree cover and closeness to the existing access.
39. In the Council's appeal statement, the proposal was considered against the defined characteristic components set out in the High Weald National Landscape AONB Management Plan 2024-2029 (HWMP2024). This found adverse effects on settlement, routeways, woodland, fieldscape and heath and dark skies.
40. With respect to the existing farm settlement, although the appellant contends that the proposal would be reasonably close to existing buildings, from my visit it would appear separate and would not relate well to the more tightly grouped existing buildings. It would give the farm a more sprawling and fragmented appearance and would harm the pattern and character of the farm and wider National Landscape.
41. The nearest routeway to the proposal is Limekiln Forest Road and the appellant acknowledged that it would be positioned close to this road. Even though the road is lower and has embankments, these would do little to screen the proposal. With the limited separation and lack of tree cover it would, even with its small size and use of timber cladding, be highly visible and prominent. While it was suggested that the proposal was no nearer the road than the farm shop, no measurements were provided and from my visit, it looked as if it would be significantly closer. Even though I agree with the appellant that the road curvature would limit longer views of the proposal, this would not be the case in the shorter and passing views from the road. Overall, the proposal would harm the character of the routeway.

42. In the case of the woodland, I recognise that the appeal site is narrow, and the proposal would be located in a small gap in the trees. However, its inclusion would be an intrusive feature that would break the woodland's continuity and linear pattern and adversely affect its character. Which presently contributes significantly to that of the wider area.
43. As the Council recognises, the proposal would not directly remove any field boundary or interrupt the field pattern. While I note the Council's comments on the interconnected and linkage impacts, the direct effect on the fieldscape and heath characteristics of the area would be negligible. Similarly, no external lighting or roof lighting is proposed and the proposed windows are small and while there are double doors to one elevation, the likely level of light pollution would be negligible.
44. The appellant queried if the use of mobile accommodation such as a large caravan suggested as a possible alternative accommodation option would be any more acceptable in terms of effect on character and appearance. However, no details of the mobile accommodation were provided, and a direct comparison of the effects between this and the proposal cannot be made. On this basis, I give this limited weight.
45. The appellant cited Appeal Decision APP/G2435/W/18/3214451 which relates to the farmhouse on the farm. This found that the two-storey farmhouse did not have a harmful effect on the National Landscape. However, the appeal decision is dated, the relationship between the building and road was different and the policy context has evolved in respect of National Landscapes. Accordingly, it is not directly comparable to the appeal and does not change my view on the harm I have found.
46. In summary, the proposal would have a negligible impact on the HWMP2024 characteristic components of fieldscape and heath and dark skies. However, the combined harm to the settlement, routeways and woodland I have found would be significant. Consequently, I conclude that the proposal would harm the character and appearance of the area with particular regard to the High Weald National Landscape. It would be contrary to saved Policy EN6 of the WLP, Policy SPO1 of the WCSLP and Paragraphs 135 and 182 of the Framework.

Trees, biodiversity and protected species

47. The appeal site is covered in vegetation including bracken. Nevertheless, while there is a gap in the woodland the proposal would still be near a number of mature trees. There was also little sign of any debris or tree/habitat damage caused by the noted historical fly-tipping or pig use of the area.
48. The appeal site has little farming value but is an integral part of the woodland edge and it can reasonably be expected that it provides valuable habitat for protected species. Proposed construction would not involve any digging or use of concrete, but would still result in the area being affected by a screwed pile foundation and the ground which is currently open, would be covered by a building. Even though the appellant considers no harm to existing trees or protected species would occur, this has not been supported by an ecological assessment or tree survey. In the absence of this, I cannot be certain that the proposal would not have an unacceptably adverse impact on the health of adjacent trees and associated habitats.

49. As such, applying a precautionary principle due to the presence of habitat and the lack of survey information, the proposal would potentially cause unacceptable harm to trees, habitats and biodiversity interests, including protected species. This would be contrary to saved Policy EN12 of the WLP, Policy WCS12 of the WCSLP and Section 15 of the Framework, all of which seek proposals that prevent a net loss of biodiversity and contribute to and enhance the natural environment.

Other Matters

50. The site is within 7km of the Ashdown Forest, which is a designated Special Area of Conservation (SAC) and a Special Protection Area (SPA). European Designated Sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations). Together the SAC and SPA qualifying features include the presence of European dry heath, North Atlantic wet heath, great crested newts, the Dartford Warbler and European Nightjar. The main identified threats arise from vehicular associated atmospheric pollution to the heathland habitats and disturbance by humans and recreational activities, development pressure and the loss of nesting/feeding habitats.
51. The Council confirmed that Natural England has agreed that no mitigation measures are needed under the specific requirements of the Habitats Regulations in the District in respect of atmospheric pollution. It also agreed that any effect on the SPA arising from additional recreational use could be addressed through a financial contribution towards Strategic Access Management and Mitigation Measures and Suitable Alternative Natural Greenspaces, secured by an appropriate planning obligation (S106 Agreement).
52. The appellant has indicated a willingness to provide the financial contribution and enter into a S106 Agreement for the SPA mitigation, but no S106 Agreement has been provided to me and I cannot be confident that the necessary mitigation would be secured. Paragraph 10 of the PPG for 'Use of planning conditions' advises that a negatively-worded condition requiring the applicant to enter into a planning obligation is unlikely to be appropriate in the majority of cases. I am not satisfied that the use of a condition would give sufficient assurance of the payment and delivery of any necessary mitigation.
53. The proposal would increase the number of volunteers and tourists staying in the area and increase the risk of disturbance by humans and recreational activities to the Ashdown Forest. When this is combined with other residential developments in the area, a significant effect on the integrity of the SPA cannot be discounted. If I was minded to grant planning permission for the proposal then, under the Habitat Regulations and as the competent authority for the appeal, I would be required to carry out an appropriate assessment and consider any mitigation. I shall return to this matter in the planning balance at the end of my decision.
54. The proposal would support the business growth of the farm and continue the farm's use of renewable and low carbon energy. This would be largely consistent with Paragraphs 88 and 160 of the Framework and attracts moderate weight in line with the modest scale of the proposal.
55. A number of representations in support of the proposal were provided at the application stage. These were typically from volunteers who had assisted on

the farm and reiterated many of the points the appellant has raised. However, they provided no further evidence to show the work undertaken by volunteers required them to be on the farm at most times, including day and night. As such they do not change my view regarding essential need.

56. The Council confirmed that it cannot demonstrate a 5-year deliverable supply of housing land. The proposed one dwelling would contribute to meeting the shortfall the Council has identified and this attracts limited weight in favour of the proposal given the scale of it.

Planning Balance

57. The appeal site falls within an area where housing growth is generally not supported, and it has not been demonstrated that there is an essential need for a rural workers' dwelling. It would not be in a sustainable location and would have adverse impacts on the character and appearance of the farm and the National Landscape, and trees, biodiversity and protected species. For the reasons set out above, the proposal is contrary to the relevant policies of the development plan in these respects and, in combination, I give these adverse effects significant weight.
58. The proposal would provide an additional dwelling which would both support the business growth of the farm and the Council in meeting its housing supply shortfall. However, due to its small scale, the proposal would not significantly boost the supply of new homes and evidence was not provided that other alternative accommodation options could not meet the farm's business needs. On this basis, I attach limited weight in favour of the proposal in these regards.
59. It is also evident that the proposal would offer economic benefits to the local economy and vitality of the area during the construction phase and through the future potential increase in volunteers and tourists. However, construction would be short term and the increase to the local economy and vitality of the area would be modest. These benefits carry moderate weight in favour of the scheme.
60. While the proposal would be built sustainably with similar materials to the existing buildings on site and would use renewable and low-carbon energy these would attract moderate weight in line with the modest scale of the proposal.
61. Notwithstanding those benefits, the proposal is contrary to the policies of the development plan, taken as a whole, given the extent of the harm identified, which far outweighs the limited to modest benefits, and the conflict with the locational strategy of the plan.
62. Due to the Council not being able to confirm a 5-year deliverable supply of housing land, Paragraph 11(d) of the Framework is triggered. However, the appeal site is located within a National Landscape which is a protected area defined in Footnote 7 of Paragraph 11(d)(i). I have found the proposal would harm the National Landscape and Paragraph 182 of the Framework provides a clear reason for refusing the development proposed. The proposal therefore would not benefit from the presumption in favour of sustainable development detailed in Paragraph 11 of the Framework.
63. Returning to the effect the proposal may have on the SPA, on the basis that I have found the proposal unacceptable for other reasons it is not necessary for

me to consider this in any further detail or to carry out an appropriate assessment as it would not change the overall decision.

64. In overall terms, taking the significant weight of harm against the limited to moderate weight to the benefits, as a matter of planning judgment, I find the benefits of the proposal do not, either individually or cumulatively, outweigh the harm identified. I therefore find the proposal would be unacceptable. In applying s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), I find that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

65. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jeremy Davis

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ralph Forder, Senior Planning Officer

Wealden District Council