



Appeal Decision

Hearing held on 25 September 2024

Site visit made on 25 September 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/Y2003/W/24/3346852

Sweet Briar Farm, Carr Road, Ulceby, North Lincolnshire DN39 6TX

- 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 Paul Wilkins of V Wilkins and Son against the decision of North Lincolnshire Council.
 - The application Ref is PA2024/236.
 - The development proposed is the erection of an agricultural workers dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In early October 2024, the Council withdrew the North Lincolnshire Local Plan (2020-2038) from examination. Therefore, the Submission version of that plan, which is before me in the evidence, forms no part of my assessment of this appeal.
3. Based on the main parties' evidence at the hearing session, I am satisfied that the effect of the proposed development on the character and appearance of the area, and on Great Crested Newt (GCN) species are not main issues in this appeal. I have therefore referred to them in the other matters section of this decision.

Main Issue

4. The main issue is whether, having regard to national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work, with particular regard to whether there is a need for a second dwelling at Sweet Briar Farm (SBF).

Reasons

Policy context

5. Policy RD2 of the North Lincolnshire Local Plan, Adopted May 2003 ("the NLLP"), seeks to control development in the open countryside by restricting it to specific exceptions, including that which is essential to the efficient operation of agriculture. This is provided that, amongst other criteria, the open

countryside is the only appropriate location for the development, and that its character and appearance would not be harmed.

6. Policy CS1 of the North Lincolnshire Core Strategy, Adopted June 2011 ("the NLCS") sets the spatial strategy for the area, which includes a focus on supporting rural communities and a vibrant countryside. In supporting delivery of the spatial strategy, NLCS Policy CS2 seeks to restrict development in the countryside to that which is essential to its functioning, which may include agriculture that requires a countryside location.
7. NLCS Policies CS3 and CS8 seek to, amongst other matters, control the spatial distribution of housing through restricting new housing to that which is essential to the functioning of the countryside, including uses related to agriculture, where a countryside location is required. Policy CS8 requires that such development should not have an adverse impact on the environment or landscape.

Essential Need

8. SBF is a free range egg production poultry facility comprising of 2 buildings accommodating some 96,000 birds, together with a dwelling on the site that is occupied by a farm worker. The first poultry building was built in 2015, with the second a few years later.
9. Farm workers leave the facility at around 4pm on weekdays, earlier at the weekends. After they depart, automated systems control the temperature and lighting within the poultry buildings, and dispense feed and water to the birds.
10. Out of hours faults with these systems, along with other external disturbances, can cause stress to the birds. This can reduce egg production and it can trigger smother events, whereby panicked birds gather in a cluster, which can lead to suffocation and death. Smothering was recognised as presenting a significant risk of harm to birds in several appeal decisions¹ referred to by the appellant.
11. Workers at SBF are alerted to out of hours faults by an alarm system. This comprises of an audible claxon and an auto dial system that sends text messages of faults to farm workers. If the auto dial system fails, the occupier of the dwelling on SBF would hear the claxon and contact other farm workers to raise the alarm. This is often the manager, who travels to SBF from his dwelling at Carr Farm, some 2.5km to the south.
12. The appellant's position is that the occupier of the existing dwelling who is employed in the arable side of the farm business, cannot always be available to respond to out of hours incidents occurring at SBF. As such, he contends that it is essential for a second farm worker to live on SBF, in sight and sound of the poultry buildings, to respond quickly to out of hours incidents. The appellant describes this essential need as long standing and is said to be more pressing now that he takes a less active role in the business.
13. The appellant's log of out of hours incidents occurring between 1 January to 31 March 2024, shows that some 11 alarms involved a fault affecting the ventilation, lighting and feed systems within the buildings. These were responded to quickly, in under 15 minutes. I accept that alarms do not

¹ APP/R0660/A/10/2122115, APP/C3240/A/05/2005531, APP/V1315/A/04/1156833, APP/A3010/A/06/2026709, APP/Y3425/A/00/1055405 and APP/E2001/A/11/2165327.

- necessarily identify the precise cause of a fault or its exact location within a building. However, most faults on the log required no more than a manual reset of 'tripped' electrical systems or restarting the power generator, with relatively limited consequences to animal welfare or to the viability of the farm.
14. The burnt-out inlet motor fan on the morning of 22 January 2024, is recorded in the log as the most serious incident in terms of its consequences to animal welfare and the financial viability of the farm. Despite a rapid response to the alarm, the burning fan motor emitted smoke and sparks which triggered a panic amongst the birds. This caused a smother event, leading to the deaths of some 800 birds, which represents just under 1% of the total flock. At current egg prices the financial loss to the business was some £50k, albeit the accounts indicate that this level of loss does not threaten the viability of the farm.
 15. To put that incident in its context, the appellant advised that around 3 fans fail each year. There are 12 fans in each building, and they normally stop rotating when they fail, without emitting smoke and sparks. The appellant could only recall fan failure of the nature experienced on 22 January 2024, occurring 3 times in 20 years. Therefore, whilst the consequences of that incident were relatively serious, the probability of such an occurrence is relatively rare.
 16. Compared to faults affecting lighting and feed systems, the failure of ventilation fans represents the most serious fault at SBF in terms of its consequences. This is because high temperatures are likely to stress the birds, leading to panic, smothering and deaths. However, this risk is expected to be seasonal in nature and concentrated over the warmer months of May through to the end of September.
 17. Furthermore, despite several incidences of power outage and the bank of ventilation fans tripping, there is no substantive evidence that such faults have caused high temperatures and harm to the birds or deaths. Although the incident log does not cover the warmer seasons, I have necessarily assessed the proposal based on the evidence before me.
 18. Faults with lighting systems arising from power failure have the potential to cause distress to the birds and smother events. Failure of the feed systems can lead to birds attacking one another. However, the evidence indicates that these incidents were resolved without serious consequences to animal welfare or egg production, following a prompt response to alarms.
 19. The incident log is a snapshot in time. Nevertheless, except for the burnt-out fan, I am satisfied based on the evidence before me, and from what I was advised by the appellant at the hearing, that the recorded incidents had relatively limited consequences to the welfare of the birds or to the economic viability of the farm. I am also satisfied that a repeat of the 22 January 2024 incident would be likely to be a rare occurrence. If it occurred again, I see no reason why it could not be responded to quickly.
 20. There is no proven fail-safe mechanism to eradicate the risk of system failures leading to out of hours incidents. However, on the evidence before me, the auto dial alert system operates effectively some 7 out of 10 times, and the audible claxon, which alerts the occupier of the dwelling to out of hours incidents was described as a fail-safe device. The incident log shows rapid responses to alarms and the manager lives a short drive away from the farm.

21. There will inevitably be times when the occupier of the dwelling at SBF is unavailable to hear the claxon alarm, for example when away from home whilst holidaying. This would be expected to have occurred since SBF was established and there is limited substantive evidence that it has contributed to any serious consequences to animal welfare or the viability of the enterprise. The probability of this coinciding with the failure of the auto dial system would appear to be relatively low.
22. Furthermore, the probability of these two factors coinciding with a failure of the ventilation fans during the seasonably warmer months of the year would be likely to be even more remote. Added to this, only a relatively small proportion of incidents at SBF affected both buildings simultaneously, lessening the burden on the workers responding to incidents.
23. An on-site caravan could provide occasional overnight accommodation for a farm worker providing supervisory cover when the occupier of the existing dwelling is unavailable. The Council advised that this may not need planning permission, particularly if seasonal in nature. Although the appellant considered that housing workers in a caravan would not be acceptable, I have no persuasive evidence to support the appellant's stance on this matter, or that farm workers would expect permanent accommodation to be included as part of their employment package.
24. Noise from low flying aircraft and the activities of animal rights protestors could present a risk of disturbance, including triggering smother events and the deaths of birds. However, I have very little evidence on the frequency of such occurrences at the appeal site or their consequences. Therefore, they have no more than limited relevance and weight to my consideration of this appeal.
25. Risks to livestock are inherent to any farming operation and I was advised that a mortality rate of around 10% is generally accepted as normal. There is limited substantive evidence of an abnormally high mortality rate at SBF, albeit I was advised by the appellant that this can vary depending upon factors including a flock's propensity for smother events.
26. Based on the evidence before me, I am satisfied that the current level of on-site supervision at SBF is adequate for the functioning of the farm, and is capable of avoiding unacceptably high risks of harm to the health and welfare of the birds, and to the viability of the farm. As such, the existing dwelling is meeting the essential need for a rural worker to live at SBF. I have no substantive evidence that adherence to industry standards would require 2 workers living at a poultry facility of this scale.
27. Consequently, on the evidence before me, it follows that the appellant has failed to demonstrate through this appeal that there is an essential need for a second farm worker to live at SBF to supervise the birds and to respond to out of hours incidents.
28. Full details of the appeal decisions referred to by the appellant are not before me. There is limited evidence that those decisions, many of which reference the now cancelled PPS7 as opposed to the National Planning Policy Framework ("the Framework"), were for dwellings proposed to be occupied by a second farm worker. Therefore, those appeal decisions are of limited relevance to this appeal.

29. Deciding whether the site-specific circumstances and evidence demonstrates an essential need for a second dwelling at SBF, involves the exercise of planning judgement. Whilst the Council reached a judgement on this issue without the use of a specialised professional, it was under no obligation to do so.
30. Taking all the above into account, I conclude on this issue that an essential need for a second rural worker to live permanently in the countryside at or near their place of work in the proposed dwelling has not been demonstrated. Therefore, the appeal proposal conflicts with the Council's spatial strategy in NLLP Policy RD2, and NLCS Policies CS1, CS3 and CS8, insofar as they seek to restrict development in the countryside to that which is essential to its functioning, and which requires a countryside location.
31. I therefore find conflict with Framework Paragraph 84, insofar as an isolated dwelling in the countryside should be avoided unless there is, amongst other exceptions, 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.

Other Matters

32. It is common ground between the main parties that the appeal proposal would cause very limited harm to the character and appearance of the countryside in this location, and I see no reason to disagree with that assessment. In respect of protected² GCN species, the main parties agree that whilst the appeal site is within an Amber Risk Zone for GCN, it would be eligible for entry into the Council's District Level Licensing scheme. The main parties agree that this could be secured by condition to avoid harm to GCN. Nonetheless, neither of these other matters alters my conclusion on the main issue or the outcome of this appeal.

Conclusion

33. For the reasons given above, I conclude that the appeal proposal would not be demonstrably essential to the functioning of SBF and would therefore conflict with the Council's spatial strategy in NLLP Policy RD2 and NLCS Policies CS1, CS3 and CS8. This brings the proposal into conflict with the development plan as a whole. There are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be made other than in accordance with the development plan.
34. For the reasons given above, the appeal should be dismissed.

G Sylvester

INSPECTOR

² Under the Conservation of Habitats and Species Regulations 2017 as amended.

APPEARANCES

FOR THE APPELLANT:

Mr Paul Wilkins (Appellant)

Mr Ian Pick MRICS (Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Skelton BSc (HONS) PGDipTP MRTPI Senior Planning Officer/Consultant