



Appeal Decision

Hearing held on 29 October 2024

Site visit made on 29 October 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2024

Appeal Ref: APP/H0900/W/24/3346378

Squirrel Cottage, Rowrah, Frizington CA26 3XS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs M Watson against the decision of Cumberland Council.
 - The application Ref 4/23/2308/OF1 was approved on 7 February 2024 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of land for the siting of a lodge for an agricultural worker.
 - The condition in dispute is No. 1 which states that:
The permission will expire on 7 February 2027. The lodge must be removed from the site on or before this date and the land restored to its former condition.
 - The reason given for the condition is:
The use hereby approved is not considered suitable as a permanent form of development in accordance with Policy SS3 of the Copeland Local Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the hearing the "Copeland Local Plan 2021-2038" (CLP) has been adopted by the Council. It now forms the statutory development plan. The decision which is the subject of this appeal was made under the provisions of the "Copeland Local Plan 2013 -2028 Core Strategy and Development Management Policies DPD" (DMDPD). However, as the CLP is now adopted, I am obliged to determine the appeal in the context of this plan.
3. Parties were aware of the emerging plan and its status and have had ample opportunity through the appeal process to make comments on it. This matter was also subject to discussions at the hearing. Therefore, I am satisfied that no party would be prejudiced by my taking the new policies into account in the determination of the appeal.

Procedural Matters

4. At the hearing the Council clarified that the original application was made in full for the change of use of land for the siting of a lodge for an agricultural worker. It was also clarified that the planning application was determined on the basis of amended plans received by the Council on 29 and 30 January 2024 which confirmed the proposed siting and elevations of the lodge. Copies of the plans were supplied at the hearing. An agricultural appraisal submitted with the planning application was also supplied during the hearing. As the documents

were familiar to both parties an adjournment was not necessary for them to consider the documents and parties were content to proceed on that basis.

5. The appellant refers to a letter from a local vet stating his opinion on the need for a permanent presence on the site. Although the appellant stated at the hearing that this was submitted during the course of the appeal it was not before me at the hearing. A copy of the letter was provided to the Council at the site visit and subsequently supplied to me. The Council were given an opportunity to provide comments on this late evidence and I have taken account of these comments and the letter in the determination of the appeal.
6. At the hearing the appellants were represented by Mr Michael Watson alone. Mrs Watson was not present; however, she was present at the site visit.

Background and Main Issue

7. Planning permission was granted in February 2024 for the change of use of land for the siting of a lodge for an agricultural worker. The need for the accommodation was predicated on the appellants' agricultural business. The permission was granted for a 3-year period ending on 7 February 2027 and, amongst other things, subject to a general agricultural occupancy condition not specifically tied to the appellants' business. The proposed lodge is intended to replace an existing static caravan located on the site and in which the appellants reside, which was granted a temporary 3-year consent in 2020 and expired in April 2023.
8. The appellants have appealed against the imposition of a condition to limit the planning permission for the lodge until 7 February 2027. At the hearing Mr Watson confirmed that he considered 5 years to be a more reasonable length of time for the permission, although written submissions suggest that the appellants ultimately wish to live permanently on site.
9. Based on the above, the main issue is, therefore, whether or not the condition restricting the planning permission for a proposed lodge building for 3 years is necessary or reasonable having regard to local planning policy relating to rural workers' dwellings.

Reasons

10. The appeal site is located close to Rowrah on a narrow lane known as Chapel Row. Although it is close to a cluster of residential properties located along the lane it is in the open countryside where CLP Policy DS2 states that outside of settlement boundaries development for housing will only be acceptable in certain circumstances. One such category is a proven need for a countryside location for agriculture, forestry, farm diversification or tourism proposal which are dependent on such a location. CLP Policy H16 sets out the criteria for essential dwellings for rural workers, which includes, demonstrating that the unit and the rural business concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.
11. These policies are intended to direct development in accordance with a settlement hierarchy in order to protect the intrinsic character and beauty of the countryside and maintain settlement character and form and are broadly consistent with Paragraph 84 of the National Planning Policy Framework (the Framework) insofar as they seek to avoid isolated homes in the countryside

unless in accordance with certain circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

12. The appeal site consists of a parcel of land made up of a driveway leading from the highway opening out into a yard and area of mown grass which currently contains a timber shed and a static caravan where the appellants reside. The wider site surrounding it contains a series of stables and sheds facing along the driveway, several small paddocks and enclosures and a timber lodge used as a holiday let known as 'Alpaca Lodge'. At the hearing the appellant stated that they also own other land close by which is used for grazing and haylage.
13. Documentation before me states that the appellants have owned the appeal site for around 25 years. However, at the hearing Mr Watson estimated that the enterprise, consisting of the keeping of 5 alpacas which are used for alpaca walking experiences for members of the public and school groups, livery for 7 horses and the keeping of 3 donkeys alongside the rental of a timber lodge holiday let, has been in existence for around 6 to 7 years. I also heard that the appellants would like to diversify the business into a cattery at the site and also have aspirations to keep a small flock of black-faced sheep. However, I have no financial projections, business plan or accounts including wages to show a clear indication of either the viability of the business as it currently stands or projections of how the appellants intend the business to grow. Furthermore, there is no indication that the proposed cattery would be acceptable in planning terms.
14. The appellants rely on a letter from a local vet to justify the need for a residential presence on the site. However, the letter is dated 5 March 2020 and whilst complimentary of the appellants approach to animal welfare, lacks detail of the specific need for a residential presence on the site, temporary or otherwise. I therefore attribute little weight to this. Nevertheless, an agricultural appraisal¹ dated 7 December 2022 states that at that time the business had been established for 2 years and a permanent residential presence on the site is justified on the basis of animal welfare and livestock and equipment security.
15. However, a similar report commissioned by the Council² in January 2024 (AG & P Jackson Report) confirms that there is a limited functional need for residential accommodation due to the small number of livestock on the site and that any future application for a permanent dwelling would only be justified should the enterprise generate sufficient work and financial support for a full-time worker which would need to be adequately demonstrated. Given that the AG & P Jackson Report is the more recent of the two reports, it provides a more up-to-date assessment of the activities at the appeal site and therefore a need for a dwelling at the appeal site. I therefore place greater weight on this document than those submitted by the appellant.

¹ Report outlining the agricultural justification for the building of a house at Squirrel Cottage, Rowrah, Frizington, Cumbria CA26 3XS on behalf of Mr & Mrs Watson dated 7 December 2022 Prepared by Johanna Kathryn Edwards MRICS PFK Land Agency

² Report on a proposed temporary rural workers dwelling - Planning application reference 4/23/2308/0F1 by AG & P Jackson dated 10 January 2024

16. The Council was under no obligation to grant planning permission for the lodge given that a previous temporary consent for a static caravan had been granted in 2020 and no evidence was submitted with the application to demonstrate the viability of the enterprise. Although I am mindful that it is unsatisfactory to grant successive temporary planning permissions, a total of around 7 years (from the date of the previous permission for the static caravan) should be an adequate period of time to establish the viability of the enterprise and the need for a full-time worker to reside at the appeal site.
17. Consequently, for the reasons set out above, to allow the dwelling to remain on the site for longer than the specified time period, or permanently, as sought by the appellant in varying the condition would be unreasonable based on the submitted evidence. I therefore conclude that the disputed condition is necessary and reasonable to avoid conflict with CLP Policy DS2 which restricts development outside the settlement boundaries to proposals including rural development dependent on such a location and where a proven need for an open countryside location has been demonstrated to the satisfaction of the Council, and CLP policy H16 where it says that development will only be permitted where there is a clearly established existing functional need, and the unit and the rural business have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.

Other Matters

18. Whilst the other conditions on the planning permission were discussed at the hearing, as I am dismissing on the main issue above, I have not considered these further.
19. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appeal relates to a lodge for the appellants who state that they both have disabilities and are therefore persons who share a protected characteristic for the purposes of the PSED. In dismissing the appeal, I recognise that accommodation which may be suitable for persons with such a protected characteristic would not be forthcoming. However, in my view, the adverse impacts of dismissing the appeal on those persons are proportionate to the adverse impacts that I have identified above.

Conclusion

20. For the reasons set out, and having taken all matters raised into consideration, I conclude that the appeal should be dismissed.

K L Robbie

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr Michael Watson Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nick Hayhurst BA (Hons) BTP MRTPI Head of Planning and Place

Mrs Sarah Papeleo BSc MA MRTPI Senior Planning Officer

DOCUMENTS SUBMITTED AT OR SHORTLY AFTER THE HEARING:

- Planning application form for full planning permission for the change of use of land for the siting of a lodge for an agricultural worker.
- Proposed Lodge Footprint Ref: 2148 Drawing 001
- Proposed elevations (3-D images)
- Report outlining the agricultural justification for the building of a house at Squirrel Cottage, Rowrah, Frizington, Cumbria CA26 3XS on behalf of Mr & Mrs Watson dated 7 December 2022 Prepared by Johanna Kathryn Edwards MRICS PFK Land Agency
- Letter from I.D Hunter BVMS MRCVS Galemire Veterinary Hospital Limited dated 5 March 2020