



Appeal Decision

Hearing held on 4 February 2025

Site visit made on 5 February 2025

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/W1145/W/24/3345400

Kingsbeer, Green Lane, Beaworthy EX21 5XQ

- 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 Sarla Vale against the decision of Torridge District Council.
 - The application Ref is 1/0893/2023/FUL.
 - The development proposed is the provision of a permanent worker's dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs have been made by Torridge District Council (the Council) against Ms Sarla Vale (the appellant), and by the appellant against the Council. These are the subject of separate decisions.

Preliminary Matters

3. In the banner head above, I have used the address as agreed by the main parties during the Hearing.
4. Alongside their Statement of Case, the Council submitted a Rural Worker Dwelling Appraisal¹ (the RWD Appraisal), commissioned after the appeal was lodged. A written response was provided by the appellant, and the RWD Appraisal was discussed in detail during the Hearing. I am therefore satisfied that no party would be prejudiced by taking the RWD Appraisal into account within my determination of this appeal.
5. Whilst the Council, with North Devon Council, have commenced work on a review of the Local Plan, it has not reached publication stage. Therefore, no policies therein have been put forward as relevant to the determination of this case.

Background and Main Issue

6. The appeal site forms part of a wider landholding of approximately 13 hectares where the appellant's enterprise includes goats, sheep and chickens, primarily bred for meat sales, with some retained for breeding or, in the case of chickens, sold as starter flocks. Planning permission for an agricultural worker's dwelling on the appeal site, now known as Kingsbeer, was conditionally approved² on 10

¹ Prepared by Landsense Professional, dated November 2024

² Application ref: 1/0405/2020/FUL

November 2020 for a period of three years to support the establishment of the enterprise. The appellant now wishes to remain living on the site on a permanent basis.

7. Therefore, the main issue is whether there is an essential need for a permanent dwelling in the countryside to accommodate a rural worker, having regard to the local development strategy and the National Planning Policy Framework (the Framework).

Reasons

8. As the appeal site is located outside any of the named Local Centres or Villages set out in Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (the Local Plan) or in a rural settlement which contains at least one prescribed service or community facility, for the purposes of the Local Plan it lies within the countryside. However, Policy ST07 does not preclude support of development which is necessarily restricted to a countryside location, such as rural worker's dwellings.
9. Specific criteria where a rural worker's dwelling will be supported is set out in Policy DM28 of the Local Plan. Those relevant to the appeal scheme include whether there is an essential operational need for a full-time worker to be resident at or near their place of work and, if so, these accommodation needs cannot be met by any other means. For a permanent dwelling to be supported, the enterprise is required to be well established, able to support a full-time worker, economically viable and has clear prospects of remaining so. The Council's Rural Worker's Dwellings Supplementary Planning Document (the SPD) outlines what is required in order for the Council to undertake these assessments.
10. Whilst the above criterion is more detailed than those set out in paragraph 84 of the Framework, there is nothing to preclude the Council from setting out more detail. Furthermore, although not defined within the Framework, the considerations relevant to establish what constitutes an essential need is set out in the Planning Practice Guidance³ (PPG), which supports the Framework.

Essential operational need for a resident full-time worker

11. The SPD refers to the use of budget books, such as the Agricultural and Budgeting and Costing Book (ABC) and John Nix (Nix) to calculate the standard working days (SWD) an enterprise requires. The RWD Appraisal includes labour requirement calculations using ABC and Nix figures based on the animals observed on site on 18 October 2024. These calculations indicated that the number of hours required to support the enterprise fall significantly below those of a full-time worker.
12. However, as recognised by the SPD, other estimates, for example recorded hours, may be appropriate where the use of budgeting books may not be applicable, albeit the SPD is silent when this would be the case. Indeed, the RWD Appraisal recognises that in cases where labour requirements are seasonal, the applicability of ABC and Nix figures is limited as they do not show the peaks and troughs across the year.

³ Paragraph: 010 Reference ID: 67-010-20190722

13. Alongside the RSPCA's Five Freedoms of animal welfare, the enterprise is operated following regenerative agricultural principles, a form of farming which allows the land to regenerate, rather than be depleted, by its agricultural use. The appellant adheres to these principles by implementing rotational grazing and using natural fertilisers, thereby minimising the use of chemicals and enabling the regeneration of the soil. By following regenerative farming principles, the organic quality of the produce is reflected in the value the appellant is able to sell directly to the local commercial catering trade and the public. Therefore, rather than based on a personal preference, the enterprise is driven by the demand for high quality, organic meat raised in a free-range environment.
14. Given the scale of the enterprise and the diversity of organic meat products produced across various seasons, the application of SWD figures associated with commercial scale agriculture would be unlikely to reflect the true labour requirements in this appeal. As similarly concluded by the Inspector on the Kingsland Farm appeal⁴, the circumstances of this case represent a situation where the application of ABC and Nix estimates is not appropriate.
15. From the appellant's explanation of activities undertaken throughout the year, it is clear that the regenerative farming operation is dependent upon a significant proportion work being undertaken by hand, can be time consuming and often requires two people. For instance, the rotational grazing regime includes the chicken enclosure and grazing areas for the sheep and goats to be moved every 3-5 days, involving the relocation of significant lengths of electric fencing whilst ensuring animals are not mixed or escape.
16. The activities presented during the Hearing broadly correspond with the details set out within the submitted diary entries. These indicate that, on average, the appellant and her partner both work on the enterprise at least 8 hours a day between 07:00 and 23:30. This is increased during lambing (March and May) and kidding (April), when hourly monitoring of labouring animals is required. Whilst the appellant previously worked part-time in a local supermarket and her partner undertook a paid role for a volunteer helpline, they no longer do so. Both now spend all their time working for the enterprise. Therefore, based on the evidence presented during the Hearing and the information before me, together with my observations on site, I conclude that the enterprise has an operational need for a full-time worker.
17. This does not mean, however, that it is necessary for there to be a continuous presence on the landholding or that there is an essential need for a full-time worker to live permanently on the site. As indicated above, during lambing and kidding, round the clock monitoring and the need to be on hand rapidly to assist with difficult births justifies an on-site presence. Given the potential threat to the stock from attacks by various predators, which can be rampant and lead to a significant loss of high value stock, the need for an on-site presence whilst the lambs and kids are small is also valid. However, this would be on a seasonal basis as opposed to requiring year-round oversight.
18. Aside from predator attacks, the appellant is also concerned the impact of a power supply failure during the night could have on the enterprise. Should there be a problem and the battery levels drop below a set limit, the backup generator will

⁴ APP/X1118/W/23/3319545

kick in. In the event the generator fails, the lack of power could result in the loss of the eggs in the incubator, a risk of animals escaping through the unelectrified fencing and limited deterrents in place for predators. According to the diary entries, this has happened on one occasion at night although this did not result in the loss of any stock. Therefore, due to the implementation of a back-up system and the low likelihood of an issue with the power supply overnight, this does not justify a worker to be permanently resident on site. Similarly, limited substantiated details have been provided regarding the frequency of any thefts or acts of vandalism to the enterprise to justify the need for someone to live on site permanently.

19. Previously, the appellant has also reared turkeys during the last five months of the year, ready to be sold at Christmas. Whilst the intention is for turkeys to be reared in the future, it is not an integral part of the enterprise at present and I have limited evidence detailing the likely labour requirements, including whether this justifies an essential need. As a result, the limited evidence provided does not indicate a need to live on site to support this seasonal activity.
20. Similarly, limited compelling evidence has been provided regarding why other plans for the future mentioned within the planning application documentation have not been progressed to date. These include increasing bird, hay and vegetable production for the enterprise and to sell to the public, breeding pigs for gourmet sausage meat and running courses on off-grid sustainable farming. Even if they remain part of the future plans for the enterprise, details of the anticipated costs, labour and sale values which would result have not been provided.
21. Based on the evidence before me and presented during the Hearing, I conclude that, whilst there is an operational need for full time worker, it has not been demonstrated that it is essential for a rural worker to be permanently resident on site on a seasonal basis.

Economically viable

22. Whilst the documents titled *Kingsbeer Accounts* and *Monthly Sales* submitted with the planning application may have been prepared by an accountant, this has not been verified. Additionally, the data within these documents has not been presented in a clear format and as they cover different periods, how the figures correlate with the number of animals mention elsewhere and confirmed during the Hearing is unclear. No further accounts were provided during the appeal.
23. Notwithstanding the above, there are entries in the *Kingsbeer Accounts* which have not been substantiated, such as the large sums debited to 'Bank,' either within the appeal documentation or during the Hearing. There are also discrepancies between the total sales listed on the *Monthly Sales* document and the equivalent entry in the *Kingsbeer Accounts* for the financial year ending in 2023. Furthermore, it is not clear if the value of any retained stock and the liability for the agricultural barn, for example, have been appropriately accounted for within the figures.
24. As such, this information does not constitute detailed and up to date accounts required by the SPD to enable a judgement on the financial soundness of the enterprise to be made. In the absence of robust and sufficiently detailed information, it has not been demonstrated that the enterprise is able to support a full-time worker, equivalent to the national minimum wage, and is economically

viable and has clear prospects of remaining so. Consequently, I am not confident that the enterprise will remain viable for the foreseeable future.

Alternative accommodation

25. No other dwellings are located on the appeal site or the wider landholding. Although the existing agricultural barn could be converted to residential accommodation, it is currently needed for the enterprise. For a conversion to be supported by Policy DM28 of the Local Plan, the barn needs to be redundant or disused.
26. The appeal site is located at the end of a long, unsurfaced track with few other dwellings nearby. A cluster of properties known as West Chilla are located close to where the track connects with a surfaced road. Even if available to buy or rent, the size of these properties would exceed the accommodation needs of rural worker and as indicated within verbal evidence during the Hearing, they would also be beyond what would be affordable to a rural worker.
27. The nearest settlement, Halwill Junction, lies approximately two miles by road from the appeal site. Although neither Policy DM28 of the Local Plan nor the SPD define what is meant by nearby, the Council confirmed at the Hearing that Halwill Junction was a suitable location for the appellants to live and still be close to travel to the appeal site in a reasonable amount of time. I see no reason to disagree with this view. However, limited details of the accommodation available to rent or buy in Halwill Junction is before me. Whilst my attention was drawn to retirement homes currently on the market, age and employment restrictions make them unsuitable for the appellant and her partner.
28. Nevertheless, given the small size of Halwill Junction and therefore the limited number of dwellings located within it, the availability of alternative accommodation, regardless of its affordability, is low. This was accepted by the Council during the Hearing. Consequently, I conclude that the accommodation needs of the appellant cannot be met in a nearby settlement or through the conversion of a redundant building on the site.

Summary

29. Whilst I have concluded that a full-time worker is required to support the enterprise and their accommodation needs cannot be met nearby, the essential need for a permanent on-site presence has not been justified. Additionally, the clarity and detail of the financial information provided does not demonstrate the enterprise is able to support a full-time worker, economically viable and has clear prospects of remaining so.
30. I conclude that an essential need for a permanent dwelling in the countryside to accommodate a rural worker, having regard to the local development strategy and the Framework, has not been demonstrated. The proposed development conflicts with the requirements of Policy DM28 of the Local Plan in this respect.

Other Matters

31. The proposed development would provide permanent accommodation for the appellant and her partner and social and economic benefits would arise from the continued operation of the enterprise. Environmental benefits derived from the regenerative farming techniques and limiting the use of chemicals would also be

continued. However, there is limited substantive evidence to support the assertion that improvements to the biodiversity value of the appellant's landholding have resulted from the enterprise. Taken as a whole, given the scale of the enterprise, these benefits would be small and I attach a correspondingly small weight to them within my decision.

32. Several other appeal decisions⁵ have been provided in support of the scheme, all of which relate to sites within other Council areas and would, therefore, have been determined in accordance with a different development plan. They also relate to different businesses which the Inspector on each case concluded were viable and likely to be sustained in the medium to long term. Therefore, it has not been shown that these other appeals are directly comparable with the specific circumstances of the scheme before me.
33. Even if the retention and use of the appellant's twin-unit mobile home for seasonable accommodation comprises permitted development, this would be on a temporary basis. Class A of Part 5, Schedule 2 of the GPDO⁶ permits the use of land as a caravan site subject to specific circumstances linked to the Caravans Act 1960⁷. This includes for accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation. However, this is conditional on the basis that the use is discontinued at the end of the particular season and that all caravans on the site are removed as soon as reasonably practicable. This scenario, therefore, would be less harmful than the provision of a permanent dwelling in the countryside and the associated development plan conflict.
34. Additionally, whether or not the conversion of the agricultural barn on the wider landholding to provide two dwellings is permissible under Class Q of Part 3, Schedule 2 of the GPDO, this would require an application for prior approval to be submitted to the Council. No evidence has been presented demonstrating that the appellant has pursued this approach through the submission of an application for prior approval nor has it been demonstrated that such a scheme would meet the conditions of Class Q. I conclude that as there is not a greater than theoretically possibility of this form of development to be implemented, it does not represent a fallback which weighs in favour of the grant of planning permission in this case.
35. Whilst the Council has declared a climate change emergency, this does not alter the requirement for applications for planning permission to be determined in accordance with the development plan as a whole.
36. Although references were made to the appellant's human rights in the written evidence, despite being given the opportunity, the appellant did not elaborate on this during the Hearing. Consequently, it has not been demonstrated that my decision would lead to an interference with the appellant's human rights as set out in the Human Rights Act 1998. Furthermore, any action taken by the Council in relation to the existing dwelling on the site is not a matter for this decision. I conclude that it is proportionate and necessary to dismiss the appeal.

⁵ APP/N1025/W/18/3199408; APP/H0738/A/13/219398; and APP/Z1510/W/20/3255127

⁶ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO)

⁷ Caravan Sites and Control of Development Act 1960 (the Caravans Act)

Planning Balance and Conclusion

37. Whilst the Local Plan was adopted in 2018, the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Instead, due weight should be given to them according to their degree of consistency with the Framework. As indicated above, I have found that this policy to be broadly consistent with the Framework and I give the proposed development's conflict with Policy DM28 of the Local Plan significant weight. Therefore, the proposed development conflicts with the development plan when considered as a whole.
38. During the appeal, the Council published an updated five-year housing land supply position for the district, calculating the supply of deliverable housing sites to be equivalent to 4.86 years. Whilst this housing land supply position is yet to be tested at appeal, no alternative figure has been put forward by the appellant. Therefore, the presumption in favour of sustainable development, as set out at paragraph 11dii in the Framework applies.
39. The Framework affirms the Government's objective of boosting the supply of homes and, therefore, the provision of an additional home in an area where there is a shortfall, however modest, in deliverable housing sites would assist in meeting this objective. The Framework also highlights the role small sites, such as the appeal site, can play in meeting housing needs. However, the benefit from the net gain of a single dwelling, nonetheless, would be small.
40. The Framework also supports the provision of housing which is responsive to local circumstances and supports housing developments that reflect local needs. However, other than the specific needs of the appellant and her partner, no substantive evidence has been provided which indicates the proposed development would meet an identified local need.
41. As I have already identified, I attach modest weight to the social, economic and environmental benefits which result from the proposed development given its scale. Consequently, the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply in this case.
42. The proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, which indicate a decision should be made otherwise in accordance with it. Accordingly, the appeal is dismissed.

Juliet Rogers

INSPECTOR

APPEARANCES

For the appellant:

Ms Sarla Vale	Appellant
Mr Robert Marshall	Appellant's partner
Mrs Helen Morris-Ruffle	Appellant's agent - Visionary Planning UK
Mr Ian Firth	Appellant's agent - Bondstones

For the local planning authority:

Mr Peter Stapley	Principal Planning Officer
Mr Angelo Massos	Principal Planning Officer
Mrs Sally-Anne Bloomfield	Director - Landsense Professional Ltd

Documents:

1. Appeal Notification Letter dated 10 October 2024
2. Hearing Notification Letter dated 25 November 2024
3. List of interested parties notified