



Appeal Decision

Hearing held on 23 October 2024

Site visit made on 23 October 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/C1435/W/24/3348274

Allwood Farm, The Street, Arlington, East Sussex BN26 6RU

- 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 the Ecological Land Cooperative against the decision of Wealden District Council.
 - The application Ref is WD/2023/2008/FR.
 - The development proposed was described as an 'agricultural workers dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural workers mobile home at Allwood Farm, The Street, Arlington, East Sussex BN26 6RU in accordance with the terms of the application, WD/2023/2008/FR, subject to the following conditions:
 - 1) The development hereby permitted shall be for a limited period of 4 years from the date of this decision. The development hereby permitted shall be removed on or before this date and the land thereafter restored to its former condition as part of a field in accordance with a scheme of work, including timescale, that shall first have been submitted to and approved in writing by the local planning authority.
 - 2) Subject to the provisions of condition 1), the development hereby permitted shall meantime be maintained in accordance with drawing numbers AL02-SLP (location plan) and ALF-PL-01 (block plan), except that the development hereby permitted may instead be sited elsewhere within the red line in drawing number AL02-SLP (location plan).
 - 3) The occupation of the mobile home hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 4) Within 6 months from the date of this decision a Management Plan (MP) shall be submitted to and approved in writing by the local planning authority. The MP shall set out details of overarching aims and objectives for management of the site, landscape and ecological enhancements, sustainable living and working practices, floodlighting, security lighting or other external means of illumination, including the timing of these measures and how they will be monitored. The MP shall be implemented in accordance with the approved details for the lifetime of the development hereby permitted.

Preliminary Matters

2. There are two conjoined appeals by the same appellant, the Ecological Land Cooperative (ELC). They are for the same development on two adjacent sites with some common considerations. I held a joint hearing but individual site visits with a representative of the main parties and have issued separate decisions¹.
3. Shortly before the hearing, ELC submitted two documents². At the hearing the Council confirmed that it had been able to consider this new evidence, so I have taken it into account in determining the appeal.
4. At the hearing the main parties agreed that 'agricultural workers mobile home' is a more accurate description of the development that was applied for and has been carried out. I have determined the appeal on this same basis and used this description in my decision.
5. A revised National Planning Policy Framework was published in December 2024 and altered by minor amendments in February 2025 (the NPPF). This does not materially affect my determination of the appeal.

Background and Main Issues

6. ELC is a not for profit society, founded to provide opportunity and support for sustainable small-scale agroecological, low environmental impact regenerative horticultural land-based livelihoods. In essence, ELC leases plots of farmland with communal facilities it owns to aspiring new tenant farmers and helps them set up and develop affordable individual smallholdings.
7. ELC has split its arable landholding of about 18.5 acres in the countryside near Arlington into three plots, one now known as Allwood Farm³. ELC was granted conditional planning permission by the Council in August 2018 to site an agricultural workers dwelling in the form of a mobile home at each plot for 5 years (the temporary PP)⁴. The appeal planning application was submitted to the Council shortly before this period expired in August 2023 (the planning application).
8. A mobile home remains in situ on Allwood Farm, acquired and occupied by the tenants. ELC seeks permanent planning permission for an agricultural workers mobile home. Without prejudice, at the hearing the main parties agreed that subject to a condition, temporary planning permission for an agricultural workers mobile home could instead be granted, if this was justified.
9. The main issues are, therefore, whether there is an essential need for a rural worker to live permanently at Allwood Farm or should a rural worker live here temporarily for a further period of time.

Reasons

10. Allwood Farm was established by the tenants, Ben and Bryony Allwood. They are the Directors of this business and primary agricultural workers. It is an intensive certified organic horticulture market garden smallholding, currently over about 3

¹ Conjoined Appeal Ref APP/C1435/W/24/3348284

² 'Assessment of the Financial Soundness and Viability of Rural Enterprises' (including Appendix 1 Small Farm Profits and Appendix 2 extracts from minimum wage reports) and 'Benchmarking Labour Need' (including extracts from The Agricultural Budgeting & Costing Book No.98 May 2024)

³ Defined by the red and blue lines in the submitted plans

⁴ WD/2018/1473/F

acres of this approximately 8.5 acre plot. A wide range (over a hundred varieties) of speciality vegetables, salads and herbs are propagated from seedlings, grown and sold primarily to wholesale customers. This includes for use in cafés and restaurants, organic shops, mobile markets and 'veg box' delivery schemes in London and in Brighton or elsewhere in Sussex.

Policy context

11. Policy DC2 of the Wealden Local Plan, December 1998 (the LP) is the most relevant and important development plan policy in this appeal. It includes five criteria to be met to permit a permanent agricultural workers dwelling in the countryside. The Council did not object to a mobile home as not otherwise suitable in size (criterion 4) or location (criterion 5). The Statement of Common Ground (SoCG) confirms that there is no other suitable accommodation (criterion 2).
12. The Council does not agree that there is a clearly established existing functional need for a permanent agricultural workers mobile home (criterion 1). Nor that all of criterion 3 has been met; which in this case requires the enterprise at Allwood Farm to have been established for at least three years, been profitable for at least one of them, be currently financially sound and have a clear prospect of remaining so. As well as criterion 5, if criteria 1 and 2 are met but criterion 3 is not, Policy DC2 permits a temporary agricultural workers mobile home if there is clear evidence of a firm intention and ability to develop the enterprise concerned and it has been planned on a sound financial basis. In this scenario criterion 4 is not mentioned but it would anyway be met in this appeal.
13. LP Policy DC2 and relevant supporting text were prepared under Planning Policy Guidance note 7, February 1997, including Annex I: Agricultural and Forestry Dwellings. This was superseded by Planning Policy Statement 7, August 2004, with similar provisions in Annex A: Agricultural, Forestry and Other Occupational Dwellings. Though no longer government policy when the Council made its decisions on the temporary PP or the planning application, I have had regard to Annex A because, as also discussed at the hearing, it is generally accepted as still useful. There is, though, no apparent reason why all cases must comply fully with all of its provisions (tests).
14. The NPPF supports a prosperous rural economy such as by the development and diversification of agricultural land-based rural business. Paragraph 84(a) includes that isolated homes in the countryside should be avoided unless there is an essential need for a rural worker to live permanently at their place of work in the countryside. National Planning Practice Guidance states that relevant considerations may be such as if necessary to ensure the effective operation of an agricultural or land-based rural enterprise (for instance, where agricultural processes require on-site attention 24-hours a day or to deal quickly with emergencies that could cause serious loss of crops or products) and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future⁵. These aspects of national policy and guidance have not changed since the Council made its decision on the planning application.

⁵ PPG paragraph 67-010-20190722

Operational context

15. The Council has relied significantly on objective standards in the Agricultural Budgeting and Costing Book (ABC) and the John Nix Farm Management Pocketbook (FMP). Both are agricultural industry standard reference documents. However, the ABC cautions that horticulture is the province of specialist growers with the quality of product and marketing particularly important. It also sets out that the Organic Farm Management Handbook (OFMH) is 'invaluable' for gross margins on these crops and for more detailed information on all aspects of organic production. The FMP reflects commercial scale agriculture and acknowledges that it is of limited value to smallholder production operations. ELC has largely relied on the OFMH, which also includes objective standards and a Farm Business Survey (FBS) for some benchmarking purposes.
16. In particular, the OFMH sets out that farming and growing on small production holdings is quite different from larger scale units. Not only are the expectations and nature of the businesses different but operating on a small scale often with high labour input, low mechanisation and marketing to several outlet types, including direct, means that costs, yields and returns may bear little similarity to larger holdings. This is particularly the case for smaller growers, who make up a distinctive, innovative and important sector of organic production.
17. Even if it is a preference to farm as a niche operation, there is no apparent reason why ELC or the tenants should be compelled to run Allwood Farm on a more conventional horticultural or agricultural basis, so fit more comfortably into the confines of the ABC or the FMP. That would be at odds with the scope and objectives of the OFMH and not reflect deference in the ABC and the FMP to enterprises more aligned with the OFMH. A more nuanced approach than for conventional, larger agro-industrial scale arable or horticultural farming is, therefore, appropriate in this appeal given the nature of the enterprise and mutual collaborative association with ELC.

Functional considerations

18. The main practical risks to the enterprise are from increasingly unpredictable individual or cumulative climate change related events such as sudden temperature or humidity variation, seasonal spring droughts or summer heatwaves and isolated storms/gales, surface water flooding and frosts. Additionally, disease, pest infestation and equipment failures such as to water pumps inhibiting mains sprinkler irrigation systems or leaks causing flooding or faults that affect germination chamber temperature or moisture levels or over-reliance on refrigeration to keep produce fresh and at an appropriate size. Conventional forms of larger scale arable farming practices with more hardy crops, including extensive mechanical or fossil fuel inputs and pest or disease control are not compatible with the principles on which an organic horticultural smallholding of this sort and size is conducted by the tenants nor with ELC's ethos.
19. Extra on-site plant care is therefore required to ensure resilience and to mitigate these risks. This is structured around sequences of operations reflecting careful attention to detail and responsiveness to environmental conditions. It must also be flexible enough to attend to tasks when conditions allow at optimum moments, including to avoid abortive work and adverse plant quality. Variation from necessary sequences of activity can result in significant counterproductive outcomes.

20. This is so far as possible to prevent plant stress, maintain plant health and condition and avoid crop damage that otherwise renders delicate, tender young/baby leaf crops or produce that is visually or physically unsaleable. For example, to replace or remove fine mesh and fleece crop protection covers, including to avoid frost damage or prevent covers being blown off and dragged across leaves or giving pests access to plants. Also, to open and close polytunnels or repair damage to structures and to hand water or avoid onset of disease such as mould, mildew, fungi or rot.
21. Activities of this sort by human intervention and close attention require bursts of time, including at the extremes of a day, with spot checks to ensure good management. It also allows weather, ground and plant conditions to be routinely monitored in an intimate and regular way, including early warning of potential problems. These sorts of activity and ebb and flow of time occur every day of the working week, weekends and all hours to avoid or minimise risks, including early morning or late evening such as to avoid harsh sunlight or when wind has died down, including summer months harvest between 4-7am and 8-10pm.
22. Implementing and maintaining these largely manual agricultural processes means that there is innately greater time and labour input required and little or no notion of a 'normal working day' (though not unusual or unexpected in the agricultural sector generally). But in this case it has delivered significant benefits. Denser, closely spaced hand planted crops and 2-3 crops on each bed per growing season give high yields per area of bed so extract maximum value from each space farmed or each crop grown over this relatively small area, often higher than field scale mechanised production without specialist tools. Moreover, rapid cropping by sensitive, hand-picked daily harvest methods within same day of delivery or collection allows sales and marketing responsive to the needs of customers, including bespoke crop planting for individual customers or to promptly fulfil last minute and short notice orders.
23. There is, as a result, a strong demand for these high value locally grown seasonal crops from Allwood Farm. The tenants have established a strong reputation and market advantage for reliability and high quality of produce which is hard to achieve but easy to lose. This encourages wholesalers to buy crops produced by these methods, including because it reduces or eliminates wastage (and this overhead to Allwood Farm) and largely guarantees sales at premium prices throughout the entire growing season. These outcomes are aligned with objectives of the OFMH.
24. Some pre-emptive measures could be taken by the tenants in advance of forecast extreme weather events, known pest or disease threats or to ensure equipment is well-maintained. Also some automated irrigation or remote alarm systems, albeit that at the hearing the Council agreed these may provide a warning but do not rectify a problem. These measures may also be more suitable for other arable or even larger scale conventional horticultural enterprises (that for instance rely on large glasshouses) where it might not be necessary for anyone to live on or near the site. But there is no compelling objective evidence that any such measures would alleviate the most significant potential risks to Allwood Farm, including, as the Council also agreed at the hearing, unforeseen storms or frosts outside of a normal daily working pattern.
25. Such risks are not manifest all of the time but at the hearing the Council agreed they were more inherently dangerous if no-one was living at Allwood Farm. Also,

- that when a risk became an actual emergency, a response time of 15-20 minutes would be necessary to limit the degree of otherwise accepted potential 'catastrophic' damage to susceptible crops. The margin for successful response is therefore narrow. Rapid changes of conditions, without timely intervention and remedial action, can otherwise significantly damage or retard plants or interfere with growing conditions so cause serious knock-on effects to suppliers, to the enterprise or to customers (businesses) reliant on the produce.
26. It is common ground that there is no suitable alternative accommodation, including within a 15-20 minute drive time of Allwood Farm. Even if it was solely or partly the responsibility of a farm worker to respond to emergencies, a full-time assistant grower lives in Eastbourne. This is a 30 minute drive to Allwood Farm, potentially at unsociable hours of the night and anyway beyond the critical response time acknowledged by the Council. Whereas the tenants are immediately on-hand to recover or make safe an emergency, as they have on several occasions in the past. While these have not been overly frequent, when they occur there are potentially serious outcomes, including because these sorts of impacts on smaller enterprises have significant potential to cause disproportionate damaging losses.
 27. The Council has used the ABC and the FMP to estimate the usual or typical expected labour need for a normal general horticultural enterprise of this size, such as plots in production and areas under cultivation. These figures are disputed by ELC and ELC has corrected errors in some of its respective figures. At the hearing the Council agreed labour need is not an 'exact science' but in any event, that even if usual day-to-day operation of Allwood Farm requires less than 1 full-time worker, at least 1 person would need to deal with emergencies on the farm. Plainly, this could be in the late evening, overnight or very early morning.
 28. Having regard to all the above, I am satisfied that the presence and on-site attention 24-hours a day of at least one of the tenants living at Allwood Farm is necessary and conducive to effective, successful daily and sustained operation of this particular enterprise, including to deal quickly with emergencies that could cause serious loss of crops and significantly undermine it. This clearly established existing functional need meets criterion 1 of Policy DC2.

Financial considerations

29. Allwood Farm was incorporated by the tenants in November 2020 and farming commenced on the land in February 2021. The enterprise has been in production since April 2021 and started trading in June 2021. Using any of these dates, it had not existed for 3 years when the planning application was submitted to the Council in August 2023, though farming had subsisted for 3 years when it made its decision in March 2024. The Council has not disputed this timeline or that the enterprise remains in operation. At the hearing (and as also set out in the SoCG) the Council agreed that the enterprise has now been established for at least 3 years, which applies even using June 2021.
30. For the reasons outlined earlier, in this appeal I consider it is not appropriate to slavishly apply factors set out in the ABC or the FMP said by the Council to have been omitted or not properly considered by ELC in addressing profitability of this particular enterprise. The OFMH anticipates that organic market garden smallholdings do not necessarily require high levels of financial investment or generate substantial levels of profit. Moreover, that owners can subsist on modest

income in comparison with other conventional farming enterprises. The Council also contends that ELC should also have incorporated average or standard return on investment multipliers and national minimum wage levels said to be 'usually cited and accepted' by Councils and Inspectors. I have not been referred to any specific decisions in this regard so I cannot be certain that circumstances of other cases the Council has in mind are directly comparable to the current appeal.

31. Notwithstanding these and other alleged discrepancies or inconsistencies with the figures presented by ELC, at the hearing (as also in the SoCG) the Council agreed Allwood Farm has made a profit. An instance of profitability is no guide to the genuineness of an enterprise and a poor guide to its probable continuation⁶. But I have no reason to doubt the sincere commitment and endeavour of ELC and, especially, the tenants or their shared vision for a successful enterprise.
32. The tenants provided their August 2023 Business Plan (BP) as part of the planning application. Amongst other things, it contains a 5 year financial projection, including expected income from sales of produce, estimated costs of sales and overheads and expected net profit for the five growing seasons 2023 to 2027. While there may be a small overlap, these growing seasons essentially reflect the April to March 2023/24 to 2027/28 financial accounting periods. It also contained some estimated or actual trading figures from earlier years.
33. Albeit not audited accounts, the Allwood Farm actual trading figures for 2022/23 include income from sales, cost of sales, overheads and net profit as part of a financial statement prepared by Chartered Accountants. Some of these figures are broadly equivalent to or better than some benchmarked farms in the FBS extracts before me. The similar breakdown for actual trading figures for 2023/24 are also unaudited but not in a financial statement prepared by a Chartered Accountant. On the face of it, in my view both of these years figures ordinarily show a realistic level of profitability for this particular enterprise taken in the context of the OFMH and some other objective measures I have been referred to, such as The Resolution Foundation and The Joseph Rowntree Foundation. However, while the 2023/24 figures relate to the first year of the BP (2023 growing season) the 2022/23 figures do not relate to a growing season in the BP but pre-date the BP.
34. Furthermore, polytunnels at Allwood Farm were destroyed by gales in a storm in early 2022. A glasshouse was temporarily rented elsewhere to enable production to continue and (according to the BP) 'increase'. At the hearing, ELC confirmed that use of the glasshouse stopped in December 2023. Albeit this setback (loss of the polytunnels) was unexpected circumstances at the time, and the glasshouse necessary to at least maintain the business, it was nevertheless coincidental with an abrupt, substantial uplift in income from sales of produce in 2022/23 and 2023/24. It had a notable net positive outcome and did not evidently delay or hinder operation of the enterprise. Despite initial start-up and other exceptional costs and that the enterprise was in early stages at Allwood Farm, it is nevertheless in stark contrast to demonstrably more modest equivalent previous trading figures, including to March 2022 (and even if by then there was some income from sales of produce derived from initial rental of the glasshouse, though there is no evidence of this).

⁶ *Petter and Harris v Secretary of State for the Environment, Transport and The Regions and Chichester District Council* [1999] EWCA

35. Regardless of whether or not the effect of the glasshouse in, or shortly after, early 2022 was reflected in the expected income projection for the first year of the BP (2023 growing season), which was submitted to the Council much later in August 2023, this growing space has not since been replaced or offset with a new polytunnel at Allwood Farm, including with one that had already by then been applied for and could have been erected under an extant prior notification decision⁷. There is no evidence (than the BP projections) that but for the glasshouse the enterprise would have achieved the same or similar actual income from sales of produce or even with the approved polytunnel in operation.
36. Consequently, the financial ramifications of giving up the glasshouse without the new polytunnel in operation are not actually known or fully reflected in the trading figures 2023/24. Nor, therefore, is the influence of these circumstances on the overall level of profitability in this first year of the BP apparent and subsequent financial year(s) actual trading figures are not yet available. Nor are there any draft or interim trading figures post March 2024 to cover any part of the second year of the BP (2024/25 accounting period, 2024 growing season). For instance, to give some insight into the actual effect of no longer using the glasshouse, including some indication of actual trading performance by the time the appeal was lodged in July 2024 or after, in the period leading up to the hearing.
37. It therefore remains to be seen if actual profitability in the second year (2024/25 accounting period, 2024 growing season) or any subsequent year(s) – including as influenced by expected sales of produce, estimated costs of sales and overheads and expected net profit – meets expected or estimated figure projections for these periods in the BP. Meantime, and in this appeal, the 2023/24 figures cover only one complete year of the 5 year BP. There is no objective evidence to suggest that 2023/24 performance has at least been sustained or bettered or that it has achieved the forecast upward trajectory and rate of financial improvement and overall profitability outlined in the BP or reasoned explanation why not. Even the 2022/23 figures have been unduly influenced by this significant change to the enterprise (renting the glasshouse). On the face of it, this undermines the veracity and credibility of even the claimed two successful years of profitability.
38. ELC and particularly the tenants have a significant interest in Allwood Farm, the tenants now for some four years and mostly on the site. But this includes before the BP was prepared and the period it covers. Though income from sales has previously been generated during this period, there has also been some low net income or loss overall and little or no profitability. ELC did not submit a tailored business plan in support of the temporary PP because there was no particular enterprise to be promoted at the time; instead, it was a ‘model’ business plan or largely generic in form. Creating general conditions conducive to securing tenants was an evident intended outcome of the temporary PP, in-line with ELC’s commendable innovative approach and achievements in other similar case studies that I have been referred to.
39. While the BP in this appeal may well reflect some of ELC’s aspirations for the temporary PP and contain some details ‘consistent’ with those objectives it is not an ‘update’ of the model business plan it provided at the time to secure the temporary PP because it was prepared for a different purpose. At the hearing ELC suggested that details of a more specific business plan had been submitted to the

⁷ Ref WD/2021/7066/AD - polytunnel prior notification decision notice (prior approval not required), 12 January 2022

- Council and approved in compliance with condition 2 of the temporary PP, but even if that is the case, there is no evidence before me that those details related to the Allwood Farm enterprise. In addition, for essentially the same reasons, nor does the time that has elapsed since the temporary PP was achieved, and before Allwood Farm was first established, count as a 'trial run' towards a justification for a permanent agricultural workers mobile home in this appeal. That is not 'delay' as such, simply time expired before the starting context of the 5 year BP advanced by the tenants in the planning application and this appeal.
40. Though not expressly stated in the BP, but as ELC confirmed at the hearing, some aspects of the BP – such as erecting a new polytunnel or diversifying the range of produce grown – were evidently in anticipation of the Council granting permanent planning permission for an agricultural workers mobile home, with such a decision likely expected by ELC and the tenants in late 2023 or early 2024. The Council's actual decision and the appeal process, including uncertainty about the outcome, has understandably caused some delay, including some other important planned improvements to the enterprise set out in the BP. But taken in the appropriate OFMH context, there is no apparent reason why the intentions set out in the BP would not or could not be achieved in practical or financial terms, in the main by the tenants with continuing support from ELC. As is otherwise advocated in the BP, this would likely add resilience to the enterprise, including by cost savings or other efficiencies and additional income streams.
 41. Having regard to all the above, Allwood Farm has been established for at least three years and been profitable for at least one of them. This might satisfy ELC's own operational criteria and the tenants expectations or matters embedded in the contractual arrangement between the two. But while there are trading figures over the period the enterprise has been in operation, some of these cover only the first full year of the 5 year BP. Nor is it clear if those figures are representative of the operation of the enterprise without the glasshouse or can be sustained given that the actual level of future profitability beyond just the first year of the BP is as yet unknown (or beyond still just two years even considering the apparently also exceptional 2022/23 actual trading figures). Moreover, and albeit for genuine or circumstantial reasons, there are nonetheless still significant pending planned improvements to the enterprise with unspecified costs and some of which had otherwise been expected before now in the BP.
 42. These are significant matters and there is uncertainty at this time. I am not, therefore, satisfied ELC has demonstrated that the enterprise is currently financially sound and has a clear prospect of remaining so. Consequently, not all of criterion 3 of Policy DC2 is met and this renders conflict with this part of this policy. There is, though, clear evidence of a firm intention and ability by ELC and the tenants to develop the enterprise, planned on a sound financial basis.

Other decisions

43. ELC has referred me to a number of decisions made by other Council's or Inspector's for some similar proposed development elsewhere in the country on other agricultural holdings. I have had regard to the general thrust of this information, including functional and financial considerations. But on the evidence before me I cannot be certain any of those are directly comparable to the specific circumstances of the current appeal and some of these decisions are anyway quite old. Some more specific points from some more recent appeal decisions were also

drawn to my attention at the hearing by ELC. I have acknowledged the significance of the FMP⁸ and the relevance of revenue to initial investment and about whether a certain level of profitability needs to be achieved⁹. In addition, matters relating to the transition from temporary to permanent accommodation and delay or setback in developing a business and some parallels with the development plan policy background in the second of these appeal decisions. But fundamentally, land in that case included the keeping of livestock which is not the case here. That Inspector's findings on functional and financial considerations were informed by this, so while aspects of that decision assist me, it is nonetheless not directly comparable to the current appeal.

Essential need conclusion

44. Taking account of all the above, notwithstanding my conclusion on functional considerations, in light of my conclusion on financial considerations I find that there is not yet a proven essential need for a rural worker to live permanently at Allwood Farm.
45. At the hearing ELC confirmed that a 5 year business plan covers a 'usual' time period, or as the Council suggested 'the foreseeable future' (though 5 years isn't the usual 3 period specified in the LP or PPS7 Annex A). In the application for the temporary PP (and if meant for a business plan or a temporary planning permission or both) ELC stated that 3 years 'was created with conventional farms in mind', whereas 'In general [ie not always] it takes considerably more time to establish a mixed ecological holding' and 'successful ecological farms followed a slow development trajectory'.
46. This is analogous to the position of Allwood Farm, including because as also put to me by ELC at the hearing, this particular enterprise 'is established' but 'has potential to grow further' so is 'further establishing' – or as the Council put it, the enterprise is not yet 'fully established'. While I do not agree with the Council that this means (or precludes that) it is not yet 'fully established' because the whole 5 years of the BP has not yet elapsed or that 5 years is the only relevant foreseeable future, it is not yet sufficiently established or endured sufficiently against the BP (or even with regard to the figures for 2022/23). It is not usual to grant a subsequent further temporary planning permission for an agricultural workers mobile home. But also considering when Allwood Farm and this new enterprise was first established, a significant part (about 2½ years) of the period covered by the temporary PP had by then already elapsed and further time has elapsed since.
47. Accordingly, I consider it is justified that a rural worker should live here temporarily for a further period of up to 4 years. I intend to allow the appeal on this basis and have had regard to the Council's wording of the similar condition it imposed in the temporary PP. This could be by the tenants continuing to live in the mobile home already in situ or another one. There is no apparent reason why this would not provide enough time, opportunity and certainty to deliver the second and subsequent years of the BP, including planned investments such as erecting the new polytunnel and diversification of the enterprise. It would be unreasonable to make the planning permission conditional on specific timing and delivery of such

⁸ Kingsland Farm APP/X1118/W/23/3319545 – including paragraph 6

⁹ Cuddyford Meadows APP/J9497/W/21/3272334 – including paragraph 29

investment or diversification because they are operational considerations for ELC and the tenants who anyway have vested interests in these regards.

48. The scope of a condition to this effect is longer than the usual 3 years referred to in the LP or in PPS7 Annex A. But in this case it would, if necessary or required, give the tenants a broadly comparable cumulative timeframe to demonstrate a sufficiently robust case for permanent agricultural workers accommodation as that given to ELC by the Council in the temporary PP and align with the period set out in the BP. That does not, though, preclude a case advanced sooner if it can be justified, including instead against a consecutive 3 year period of the BP. At the hearing the Council agreed that a further temporary planning permission may provide better understanding and certainty in these respects.
49. These circumstances comply with Policy DC2 overall and as such do not result in unjustified residential development in the countryside. Accordingly, there is no conflict with LP Policy GD2 or Policies SP01, SP07, SP13 and WCS14 of the Wealden Core Strategy, February 2013. This is because, amongst other things, these policies generally restrict development in the countryside unless it complies with other policies of the development plan, which is the case in this appeal.

Other Matters

Natural environment

50. The most recent ecological survey report¹⁰ prepared for ELC demonstrates appreciable ecological enhancement to flora and fauna at Allwood Farm since the enterprise was established and as a result of practices incorporated by the tenants, which also include notable water and energy efficiency measures. There is no evidence of any harm to protected species and the report sets out measures to maintain or further improve habitat management over a large area of countryside, including new planting. Details in these regards could be incorporated in a management plan submitted to and approved by the Council via a suggested condition agreed by the main parties in the SoCG. These important biodiversity net gains and renewable energy initiatives reflect objectives of the NPPF to conserve and enhance the natural environment and help address climate change so would be notable appreciable benefits, but do not in themselves justify allowing the appeal, including granting permanent planning permission.
51. The Pevensy Levels Special Area of Conservation (the SAC) is protected due to wetland marsh habitat and Ramshorn aquatic snail species (*Anisus vorticulus*) important for nature conservation. The integrity of this European Site is at risk of harm, including due to adverse effect of development on water quality, such as from surface water runoff or discharge of grey water or foul waste water from treatment plants exacerbating nutrient eutrophication. I have consulted Natural England (NE) with information provided by the Council about the SAC, including its own Habitats Regulations Assessment. I have since received written confirmation from NE that the site is not within a zone of influence of the SAC. NE considers that a mobile home on the site would not result in a likely significant effect on the SAC. As the Competent Authority in this appeal¹¹, I have no reason to reach a different view. In light of this screening I am satisfied that a likely significant effect on the SAC can be ruled out.

¹⁰ Ecological Monitoring Report Year 2 Rev01, 24 January 2023

¹¹ Conservation of Habitats and Species Regulations 2017 (as amended)

Historic environment

52. A dwelling known as 'Copyhold' is a circa 18th century grade II listed building. The significance of this designated heritage asset includes its historic position in the countryside amongst a small sporadic group of buildings on an approach into Arlington. It is on the opposite side of The Street, a significant distance to the north of Allwood Farm and separated by an intervening swathe of trees with no direct visual or physical interrelationship. As a result, the mobile home has a neutral effect on the setting of Copyhold so preserves the setting of this listed building¹².

Housing land supply

53. The Council agrees it cannot demonstrate a 5 year supply of deliverable housing sites, at 4.45 years according to its latest published figure¹³. By virtue of footnote 8, NPPF paragraph 11(d) is engaged and the starting point is that planning permission should be granted. In this appeal there are no areas or assets of particular importance that provide a strong reason for refusing the development¹⁴ and no adverse impacts of granting planning permission so the presumption in favour of sustainable development applies. A mobile home is a form of housing and can contribute to the supply of housing. As such, albeit a small contribution, it would be aligned with objectives of the NPPF to significantly boost the supply of homes to meet peoples living needs. Nevertheless, this consideration does not in itself justify allowing the appeal, including granting permanent planning permission.

Unilateral undertaking

54. A draft unilateral undertaking was discussed at the hearing, including that ELC consider it would result in significant benefits. The Council considers it is not needed. At my discretion, after the hearing ELC submitted a final executed unilateral undertaking dated 30 October 2024 (the UU). The UU does not contain the 'attached plan' as part of the 'Property Land' definition but the address in this definition, including reference to Allwood Farm and Land Registry title number clearly identifies the property/land. The UU also contains covenants to the Council, all purporting to be planning obligations for the purposes of section 106¹⁵. The covenants come into legal effect on the date planning permission is granted, if the appeal is allowed, and bind ELC to do what it has promised.
55. Covenant 3.1 refers to an annual monitoring report (AMR) to be submitted to the Council setting out progress with a management plan (MP) for Allwood Farm. Covenant 3.2 refers to an action plan to be submitted to the Council in the event that the AMR indicates the MP is not being achieved, including measures to remedy failures in this regard. These measures would directly or indirectly restrict the use of land, require activities to be carried out on land or require land to be used in a specified way. As such, these are planning obligations¹⁶.
56. But details of a MP for Allwood Farm could be submitted to and approved by the Council via the suggested condition agreed by the main parties in the SoCG. It is the MP, secured and implemented by this condition that would deliver agreed site management, landscape and ecological enhancements (including weed control),

¹² Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

¹³ Housing Land Supply Statement 1 April 2024 (published September 2024)

¹⁴ NPPF footnote 7

¹⁵ Town and Country Planning Act 1990 (as amended)

¹⁶ Section 106(1)(a)(b)(c)

sustainable living and working practices and arrangements for monitoring. The Council has planning enforcement powers to remedy non-compliance with such a condition. The condition would suffice so both of these covenants are not justified¹⁷.

57. There is no evidence that retaining Allwood Farm as one whole and indivisible land holding (covenant 3.3) – and restricting use of, and activity on this land in this specific way – is the only way to justify an agricultural workers mobile home. This covenant is, therefore, not necessary to make the development applied for in this appeal (an agricultural workers mobile home) acceptable in planning terms, or fairly and reasonably related in scale to this development. It does not, therefore, meet all three tests for a planning obligation¹⁸.
58. Covenant 3.4 restricts occupation of the mobile home to certain persons. This is routinely achieved by a condition to otherwise prevent unjustified isolated residential development in the countryside, such as the condition agreed and suggested in the SoCG. It reflects aims of the LP to ensure a stock of available agricultural workers dwellings to meet the needs of agricultural or other rural enterprises generally¹⁹. This is consistent with objectives of the NPPF to enable sustainable growth and expansion of all types of businesses in rural areas and to recognise the intrinsic character and beauty of the countryside. But the wording of covenant 3.4 prevents opportunity for occupation of a mobile home by any agricultural worker, only by a person operating an agricultural business at Allwood Farm, so it is not aligned with the wording of the suggested condition.
59. I appreciate that this covenant more closely reflects the wording of the occupancy condition attached by the Council to the temporary PP and that the LP does not preclude this possibility²⁰. However, that was in the context of a general case for establishing a mobile home for any enterprise on any of the 3 plots to begin with. There is no evidence of any specific LP ‘appropriate circumstances’ to justify such a further restriction in this appeal, nor that this would be consistent with the NPPF. Either way, whether or not the mobile home would in fact be made ‘available’ to meet a more general agricultural workers accommodation need (thus precisely who occupied the mobile home) is anyway largely a matter already within ELC’s control as the owner of the land upon which it is situated. Consequently, this planning obligation is superfluous. It is in any event not necessary to make the development acceptable in planning terms, so it does not meet all three of the tests.
60. The planning obligation in covenant 3.5 (to remove the mobile home if a planning permission granted on appeal is quashed) contains no specific timeframe for completing the required actions. It is, anyway, not necessary to make the development acceptable in planning terms so it does not meet all three tests. The Council has planning enforcement powers to achieve the same outcome (remove the mobile home within a specified period of time) if planning permission was granted subject to a condition for a temporary period so it is also superfluous.
61. Covenants 3.6 and the first part of 3.7 are about securing a tenant to occupy a mobile home at Allwood Farm. These essentially private contractual matters are not planning obligations within the scope of section 106, but personal undertakings by ELC to the Council. The second part of covenant 3.7, removing the mobile home

¹⁷ Planning Practice Guidance paragraph 21a-011-20140306

¹⁸ NPPF paragraph 58

¹⁹ LP paragraphs 5.16 and 5.23

²⁰ LP paragraph 5.24

and making good the land, is a planning obligation; albeit that should these actions occur within the period of an unexpired planning permission the covenant would not, on the face of it, prevent another mobile home being reinstated. This covenant is not necessary to make the development acceptable in planning terms, so it does not meet all of the tests.

62. I have had due regard to the UU, which will be effective insofar as it is intended to achieve what is set out in it, but it does not deliver public benefits in support of the appeal or that could not otherwise be secured using a condition(s). It is not, therefore, a reason for granting planning permission.

Other interested party comments

63. Many people and some businesses supported the agricultural workers mobile home and some people objected, including for other reasons. Most notably, the development is not for a house and whether such living accommodation can be justified is not relevant to my decision. Nor is the geographic location of ELC or the origin of those who occupy the mobile home or if they integrate with the local community. The Council has no concern with the presence of the agricultural workers mobile home already at Allwood Farm – it is typical of its type, not excessive in size, located near other buildings or structures and largely screened from public view by landscape features, including, as I saw, from The Street and the public footpath that crosses part of the site. Although the temporary PP has expired ELC is entitled to seek a new planning permission. The presence of another mobile home at Allwood Farm is not within the scope of this appeal but could be a matter for the Council.
64. Plastic sheeting (such as crop covers or polytunnels) is part of the enterprise, typical of similar enterprises elsewhere. Stray sheeting accidentally blown onto other land, or any weed creep, is likely a nuisance but are private matters between the respective parties. So too is any tree planting said to interfere with national electricity supply, including any private agreements in this regard. Restricting the erection of polytunnels or other structures required to operate the enterprise, including the exercise of any available agricultural permitted development rights, would not reasonably relate to the development applied for in this appeal so is not justified. The Council would be able to consider a planning application for such development and public comments in these regards. I have considered the appeal on its individual planning merits.

Conditions

65. In addition to those referred to earlier, the SoCG contains some other suggested conditions also discussed without prejudice at the hearing in the event the appeal is allowed and planning permission granted. I have considered modified wording in the interests of clarity or precision and have had regard to the relevant legal and policy tests for conditions. The standard time limit for commencing development would not be necessary because the development applied for has been carried out.
66. At the hearing the main parties agreed that the existing agricultural workers mobile home could be replaced with another mobile home or instead be sited elsewhere within the red line defining the appeal site in the submitted plans. I agree that this would have the same or similar visual presence in the countryside. At the hearing the Council accepted that a high quality and standard of mobile home could be suitable for long term use. However, an approved plans condition would be

necessary to give clarity, including that this mobile home should not be sited elsewhere at Allwood Farm as defined by the blue line in the submitted plans because that would likely have a materially different visual presence.

67. I agree with the main parties that drawing number ALF-PL-02 should not be approved because it relates to an internal layout of the mobile home that is in situ, which could be replaced. Details of floodlighting, security lighting or other external means of illumination could be secured as part of the MP and while some landscaping was approved as part of the temporary PP, landscape enhancement is included as an agreed objective of the MP so all of these provisions do not need separate conditions.

Conclusion

68. Subject to conditions, the development complies with the development plan. There are no other material considerations, including provisions of the NPPF, to indicate that the decision should not be made other than in accordance with the development plan taken as a whole²¹. Consequently, for the reasons given above the proposal is acceptable so the appeal succeeds.

Robin Buchanan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

- Dr Simon Rushton BSc (Hons), MA, MA, PhD, MRTPI
Planner
- Mr Bill Knight BEng (Hons)
TerraPermaGeo
- Ms Ruth Munns BSc, MSc
Appellant (ELC)
- Mr Ben and Mrs Bryony Allwood
Allwood Farm

FOR THE LOCAL PLANNING AUTHORITY:

- Mr Rob Bewick BSc, MA Town Planning, RTPI Licentiate Member
Assistant Team Leader
- Miss Zoe Sullivan LLB (Law), MA Urban Design and Town Planning, RTPI Licentiate Member
Planning Officer
- Mr Alan Bloor BSc, FBIAC
Reading Agricultural Consultants

²¹ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)

INTERESTED PARTIES:

- Mr Peter Stenning, Arlington resident
- Mr David White, Arlington resident
- Mr Ian Christiansen, Allwood Farm assistant grower

DOCUMENTS

Submitted during the hearing

- ELC polytunnel prior notification letter - 17 December 2021
- Council polytunnel prior notification officer report Ref WD/2021/7066/AD
- Council polytunnel prior notification decision notice (prior approval not required) Ref WD/2021/7066/AD, 12 January 2022

Submitted after the hearing

- Council letter enclosing Final housing Land Supply Statement September 2024 and Habitats Regulations Assessment for the Pevensey Levels Special Area of Conservation, 28 October 2024
- ELC email, 30 October 2024 enclosing updated unilateral undertaking dated 30 October 2024
- Natural England email consultation, 24 February 2025