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## 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**

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**Appeal Ref: APP/C1435/W/24/3348284**

**Aweside 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/2023/2007/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 Aweside Farm, The Street, Arlington, East Sussex BN26 6RU in accordance with the terms of the application, WD/2023/2007/FR, subject to the following conditions:
  - 1) The development hereby permitted shall be maintained in accordance with drawing numbers AW02 (location plan) and AWF-PL-01 (block plan), except that the development hereby permitted may instead be sited elsewhere within the red line in drawing number AW02 (location plan).
  - 2) 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.
  - 3) 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 decisions<sup>1</sup>.

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<sup>1</sup> Conjoined Appeal Ref APP/C1435/W/24/3348274

3. Shortly before the hearing, ELC submitted two documents<sup>2</sup>. 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 Aweside Farm<sup>3</sup>. 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)<sup>4</sup>. 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 Aweside 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 Aweside Farm or should a rural worker live here temporarily for a further period of time.

## **Reasons**

10. Aweside Farm was established by the tenants, Sinead Fenton and Adam Smith. They are the Partners of this business and primary agricultural workers. It is an innovative, intensive certified organic floriculture market garden smallholding, currently over much of this approximately 4.5 acre plot and one of a small number of such specialist businesses nationally. A diverse variety of fresh, dried and pressed edible (food grade) flowers (and garnishing greens, herbs and vegetables) are propagated from seedlings, grown and sold primarily to wholesale customers for use in restaurants, cafés and bars or by chefs and cookbook authors in London and Sussex. Also for sale to the public via a website or other social media and to the wedding and cake industry, including cut flowers.

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<sup>2</sup> '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)

<sup>3</sup> Defined by the red and blue lines in the submitted plans

<sup>4</sup> WD/2018/1473/F

### *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 Aweside 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 future<sup>5</sup>. These aspects of national policy and guidance have not changed since the Council made its decision on the planning application.

### *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 (so including floriculture) are 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

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<sup>5</sup> PPG paragraph 67-010-20190722

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 Aweside 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 the effects of rain, unexpected rapid fluctuating cold or heat (temperature generally) or other weather damage from storms, including gales and surface water flooding. There has also been livestock incursion trampling flowers or other crops. Additionally, disease, pest infestation and equipment failures such as to fridges operating on solar power leading to perishing of flowers and a dehydrator and flower presses which otherwise allow storage of flowers to sustain year round sales. 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, perishable flowers or herbs (more so than vegetables) 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 flowers (which is inherently more difficult to achieve in any event because they are so delicate) or giving pests access to flowers. Also, to open and close polytunnels or repair damage to structures and to hand water (to avoid damage to

- flowers) or avoid onset of disease such as mould, mildew, fungi or rot. The enterprise relies heavily on propagating and raising its own plants because there are very few suppliers of organically certified flower seeds of the varieties required by the business and no organic flower nurseries. Consequently, managing and protecting the seed stock is critical to the enterprise.
21. Activities of this sort by human cultivation, 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 heat wilt or rain dampening damage to perishable edible flowers preventing harvest, which can be from dawn (4-5am) with late preceding evening orders during a harvest season March to December (most intensely between May to September in hotter temperatures), including customer collections before or after normal working daily hours or at weekends.
  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 such as timely optimal conditions for transplanting of seedlings, peak visual and physical condition of edible flowers and sufficient conditioning of cut flowers for long vase life, both without excessive storage which affects quality. More densely planted crops with sufficient care and attention using companion planting where different species in close relationship provide benefits to each other improving the yields of both and high yields of high end produce from a fixed area, often higher than field scale mechanised production without specialist tools (which are anyway inherently unsuitable measures for edible flower crops). Moreover, rapid cropping by sensitive, hand-picked daily harvest methods within same day (or 24 hours) 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 Aweside Farm. The tenants have established a strong reputation and market advantage for reliability and high quality of produce which is hard to achieve but easily lost. This encourages wholesalers to buy crops from trusted suppliers produced by these methods, including because it reduces or eliminates wastage (and this overhead to Aweside 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 Aweside 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 Aweside 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 Aweside Farm. Even if it was solely or partly the responsibility of a farm worker to respond to emergencies, there is no evidence there is such a suitable person and could anyway be potentially at unsociable hours of the night. 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 Aweside 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 Aweside 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. Aweside Farm was established by the tenants in March 2020 and the enterprise started production in April 2021. Using either date, it had not existed for 3 years when the planning application was submitted to the Council in August 2023, nor by the time 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 April 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 Aweside 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 continuation<sup>6</sup>. 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 2023 Business Plan (BP) as part of the planning application. Amongst other things, it covers a 5 year period including actual trading figures for April to March 2021/22 and 2022/23 financial accounting periods. In addition, financial projections for 2023/24 to 2025/26, including expected income from sales of produce, estimated costs of sales and overheads and expected net profit. While there may be a small overlap, these periods essentially reflect the 2021 to 2025 growing seasons. There was no trading in 2020/21, which included initial start-up costs.
33. Albeit not audited accounts, the Aweside Farm actual trading figures for 2021/22 and 2022/23 include income from sales, cost of sales, overheads and net profit as part of a financial statement prepared by Chartered Accountants. Similar actual trading figures for 2023/24 are also unaudited but not part of a financial statement prepared by a Chartered Accountant. Some of these figures are broadly equivalent to or better than some benchmarked farms in the FBS extracts before me.
34. Actual income from sales of produce was lower than projected in the BP for 2023/24 but though unexplained, not by a substantial absolute or percentage difference. Moreover, though also not by a substantial difference by either measure, actual net profit was nonetheless higher than projected in the BP for 2023/24. Actual trading figures for the last two years of the business plan are not yet available. Nor are there any draft or interim trading figures post March 2024 to cover any part of the last two years of the BP (2024/25 and 2025/26 accounting periods, 2024 and 2025 growing seasons). For instance, to give some insight or 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.
35. However, on the face of it, in my view these figures for the 2021 to 2023 growing seasons and first three consecutive years of the BP, including as influenced by sales of produce, costs of sales and overheads and net profit, 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. This includes objective evidence to confirm that projected 2023/24 performance has been broadly sustained overall, albeit more modest in 2023/24 compared to 2022/23, and an upward trajectory and rate of financial improvement, including overall profitability.

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

This endorses the veracity and credibility of the three successful years of profitability taken in the appropriate OFMH context.

36. There is no apparent reason why future plans and 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 further resilience to the enterprise, including by cost savings or other efficiencies and additional income streams.
37. 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 year 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'<sup>7</sup>.
38. In this case, as also put to me by ELC at the hearing, this particular enterprise 'is established', including over a more usual period of 3 years referred to in the LP and PPS7 Annex A and it has endured for this time against the BP. I accept, as ELC also put to me at the hearing, that Aweside Farm 'has potential to grow further', so is 'further establishing' but in this case I do not therefore 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.
39. Having regard to all the above, Aweside Farm has been established for at least three years and been profitable for at least one of them. The actual trading figures are representative of the operation of the enterprise and some projections over this period. There is no apparent reason why this cannot be sustained with sufficient confidence and certainty at this time. I am, therefore, also satisfied that ELC has demonstrated the enterprise is currently financially sound and has a clear prospect of remaining so. Consequently, all of criterion 3 of Policy DC2 is met.

#### *Essential need conclusion*

40. Taking account of all the above, including my conclusions on functional and financial considerations, I find that there is a proven essential need for a rural worker to live permanently at Aweside Farm. This could be by the tenants continuing to live in the mobile home already in situ or another one. It follows that I do not need to consider if a rural worker should live here temporarily for a further period of time.
41. 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.

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<sup>7</sup> My emphasis and [insert]

## Other Matters

### *Natural Environment*

42. The most recent ecological survey report<sup>8</sup> prepared for ELC demonstrates appreciable ecological enhancement to flora and fauna at Aweside 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 and granting planning permission.
43. The Pevensey 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 appeal<sup>9</sup>, 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.

### *Historic environment*

44. A dwelling known as 'Copyhold' is a circa 18<sup>th</sup> 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 Aweside 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 building<sup>10</sup>.

### *Housing land supply*

45. The Council agrees it cannot demonstrate a 5 year supply of deliverable housing sites, at 4.45 years according to its latest published figure<sup>11</sup>. 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 development<sup>12</sup>

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<sup>8</sup> Ecological Monitoring Report Year 2 Rev01, 24 January 2023

<sup>9</sup> Conservation of Habitats and Species Regulations 2017 (as amended)

<sup>10</sup> Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

<sup>11</sup> Housing Land Supply Statement 1 April 2024 (published September 2024)

<sup>12</sup> NPPF footnote 7

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 and granting planning permission.

### *Unilateral undertaking*

46. 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 Aweside 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 106<sup>13</sup>. 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.
47. 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 Aweside 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 obligations<sup>14</sup>.
48. But details of a MP for Aweside 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), 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 justified<sup>15</sup>.
49. There is no evidence that retaining Aweside 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 obligation<sup>16</sup>.
50. 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

<sup>13</sup> Town and Country Planning Act 1990 (as amended)

<sup>14</sup> Section 106(1)(a)(b)(c)

<sup>15</sup> Planning Practice Guidance paragraph 21a-011-20140306

<sup>16</sup> NPPF paragraph 58

enterprises generally<sup>17</sup>. 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 Aweside Farm, so it is not aligned with the wording of the suggested condition.

51. 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 possibility<sup>18</sup>. 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.
52. 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.
53. Covenants 3.6 and the first part of 3.7 are about securing a tenant to occupy a mobile home at Aweside 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 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.
54. 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*

55. 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

<sup>17</sup> LP paragraphs 5.16 and 5.23

<sup>18</sup> LP paragraph 5.24

workers mobile home already at Aweside 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 near it. Although the temporary PP has expired ELC is entitled to seek a new planning permission.

56. 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**

57. 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. Nor would a condition limiting the planning permission for a temporary period of time be necessary for the reasons outlined earlier.
58. 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 Aweside Farm as defined by the blue line in the submitted plans because that would likely have a materially different visual presence.
59. I agree with the main parties that drawing number AWF-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**

60. 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 whole<sup>19</sup>. 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)
- Ms Sinead Fenton  
Aweside 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

### **INTERESTED PARTIES:**

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

## **DOCUMENTS**

### 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

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<sup>19</sup> Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)