Planning Inspectorate

Appeal Decision

Hearing held on 5 February 2025

Site visit made on 5 February 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2025

Appeal Ref: APP/P0240/W/24/3354683
Warren Stables, Warren Lane, Clophill MK45 4AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs M and L Stokes against the decision of Central Bedfordshire Council.
- The application Ref is CB/23/01819/FULL.
- The development was originally described as "retention of temporary dwelling to create permanent dwelling".

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr and Mrs M and L Stokes against the decision of Central Bedfordshire Council and is the subject of a separate decision.

Procedural Matters

3. The revised National Planning Policy Framework ("the Framework") was published in December 2024 after the appeal was submitted. In the interests of fairness both main parties have been given the opportunity to comment on the revised document and any made have been taken into account in my decision.

4. The appeal is described as seeking planning permission to retain a dwelling granted a 3 year temporary planning permission in June 2020[1] ("the temporary planning permission"). The Council's decision notice described it as a "temporary mobile home", with occupancy restricted to a person and any dependants solely or mainly employed as part of the equestrian business. The appeal dwelling appears to accord with the drawings approved in June 2020 and is described as retrospective. This is the basis on which I have considered the appeal.

5. The main parties dispute whether the appeal dwelling is a caravan or building. The Council considers that it meets the definition of a caravan in terms of its dimensions and moveability, being set on stilts. The appellants do not dispute those dimensions but consider it to be a building set on brick columns that cannot be transported by road.

[1] CB/19/04136/FUL

6. There are long metal beams on the underside of the timber floor of the dwelling that appear to rest on several brick columns, raising its floor well above ground level with a void beneath. Whilst it appeared more akin to a caravan/mobile home than a building it is not for me in determining this section 78 appeal to make a formal determination on this matter and it would not be necessary to do so in any event given my decision.

7. The main parties have used varying terms to describe the home, including as a 'dwelling'. I have referred to the home as 'the dwelling' as this is a sufficiently neutral term that could be applied to either a caravan/mobile home or building, but which does not confirm it to be any of them.

Main Issues

8. The main issues in this appeal are:

   - Whether the site is in a suitable location for housing with particular regard to local and national planning policy.
   - Whether the rural enterprise is financially sound and the degree to which there is confidence that it will remain so for the foreseeable future.
   - Whether or not an essential need for a rural worker to live permanently at the appeal site has been satisfactorily demonstrated.

Reasons

Policy context

9. Policy SP7 of the Central Bedfordshire Local Plan 2015-2035, Adopted July 2021 ("the CBLP") states that outside settlement envelopes the Council will recognise the intrinsic character and beauty of the countryside and only particular development will be permitted. This includes dwellings for the essential needs of rural workers in accordance with Policy DC3, and for the redevelopment of previously developed land, where a site can be made accessible to nearby services and facilities by sustainable modes of transport.

10. CBLP Policy DC3 provides for permanent new dwellings for the use of rural workers in the countryside. This includes where there is a clearly established, existing functional need for a full-time worker to live permanently at or near their place of work in the countryside on a unit that has been established for at least 3 years, has been profitable for at least one year, is currently financially sound and has a clear prospect of remaining so, and the need could not be fulfilled by existing accommodation in the area which is suitable and available.

Whether a suitable location for housing

11. Despite being accompanied by evidence seeking to demonstrate that the appeal dwelling meets the requirements of CBLP Policy DC3, and the parties being in agreement at the hearing that the dwelling is isolated within the meaning of Framework Paragraph 84, the appellants put it to me at the hearing that even if I were to find conflict with Policy DC3, the appeal dwelling would accord with CBLP Policy SP7.

12. The appeal site is located outside of the settlement envelope of the nearest settlement of Clophill and in the countryside. Journeys between the appeal site

and Clophill would be along the A507 where traffic conditions were busy with relatively fast moving vehicles. My visit was a snapshot in time, but I have no substantive evidence that traffic conditions at the time of my visit were abnormal. Traffic conditions together with an absence of footways along most of the A507 would be likely to deter walkers and all but the most experienced and proficient cyclists from travelling between the appeal site and services in Clophill. I am not aware of any public transport being available in the vicinity of the appeal site.

13. The appellants have access to an informal path through nearby woodlands that joins with a public right of way. However, this path is on third party land and its availability cannot be assured, and I saw that its rutted earth surface and absence of lighting would not provide a convenient or accessible route towards Clophill for most persons, particularly those with reduced mobility. Furthermore, there is no formal road crossing of the A507 at the end of the path and traffic conditions would be likely to deter pedestrians from using this route to travel to Clophill.

14. A worker employed in the business and living in the appeal dwelling would not be expected to travel by car to work. They would be expected to generate fewer trips than an occupier who commutes to work elsewhere. However, this would only be the case if the dwelling met CBLP Policy DC3, and in any case given the location of the dwelling, occupiers would still be heavily reliant upon private vehicles to meet most, if not all, of their travel needs to access services and facilities.

15. Opportunities to maximise sustainable travel between urban and rural areas vary. Residents in rural areas are comparably more reliant on car journeys to access services and facilities. However, these factors do not justify development in locations where occupiers would be heavily reliant on travel by car, with few opportunities for sustainable travel.

16. Consequently, I conclude that the appeal dwelling, even if located on previously developed land (PDL), is not in an appropriate location for housing with particular regard to the Council's locational strategy, and its accessibility to nearby services and facilities by sustainable modes of transport. It would therefore conflict with the requirements of CBLP Policy SP7, which are set out above and would undermine the plan-led strategy for development. Consequently, my attention turns to whether the appeal dwelling would meet the requirements of CBLP Policy DC3 as an exception to CBLP Policy SP7.

Financial soundness

17. The appellant's enterprise is primarily a horse livery, involving the stabling of horses for paying customers, including a small number of rescue horses for which charities pay a stabling fee. There is more or less the same number of horses kept on the appeal site now as there were when the temporary planning permission was granted in 2020, albeit it was explained at the hearing that this can vary from time to time, and there is a waiting list of new customers.

18. The business accounts for the appellants' limited company do not show any wages being drawn from the business, which is primarily operated on the appellants labour, along with some assistance from others. Apart from a Director's salary in 2020, and a series of relatively modest dividends in recent years, the appellants do not take a wage from the business to cover their labour. Both of the appellants derive incomes from other sources and it was explained at the appeal that Mrs

Stokes is employed full time in another business and Mr Stokes is employed in an agricultural business.

19. A range of figures estimating the labour requirements of the enterprise have been submitted by the appellants. The 6th Edition of the Equine Business Guide 2015 (“the EBG”) indicates a labour requirement for the business of 2.4 full time equivalent (FTE) workers based on the number of horses kept on the site, equating to 5,328 hours of work per year. The appellants’ documentary evidence indicates a need for up to 2 full-time workers, family helpers and a part time groom. The appellant explains that a manager of the enterprise would work long hours, regularly over 60 hours per week, along with some extra part time help. At the hearing, the appellants’ explained the labour requirement of the business to be between 1 and 2 FTEs.

20. The advice of the Council’s expert Agricultural Advisor (AA) is that the profits of the enterprise are insufficient to fund its labour requirements, particularly as the enterprise has a labour requirement in excess of 1 FTE. In response to the AA’s advice, the appellant submitted calculations to the Council in December 2023 showing the wages that could have been paid by the profits of the business in several years had it paid any. Whilst these were not seen by the AA, they appear to be based on 1 FTE working 37 hours per week, which is considerably fewer hours than the labour requirement indicated by the appellant or the EBG. As such, they have limited weight in my assessment.

21. The main parties have provided details of the National Minimum Wage (NMW) rates dating back several years for workers of different ages. However, I am not aware of anything in national or local planning policy that limits the assessment of a rural enterprise’s financial soundness to the lower NMW of younger workers, who in any event would be expected to age. I have no mechanism for ensuring that only younger workers would be employed in the business and therefore I find no basis to assess financial soundness on employing younger workers.

22. Based on a NMW between April 2022 – March 2023 for persons aged 18-20 years old of £6.83 per hour, a 60 hour week would give a wage of £354 per week, equivalent to £21,309 per annum, and less than the business profits in the most recent accounts. However, over that same period the NMW for a worker aged 21-22 years old, and the National Living Wage (NLW) for a worker aged 23 years over, would have amounted to annual wages of £28,641 and £29,640 respectively, both greater than the profit achieved in the most recent accounts. Based on 5,328 hours of work per year in the EBG, a wage of £6.83 per hour would equate to a wage bill of some £36,390.

23. The evidence suggests that from April 2024, the NMW for a person aged 18-20 increased to £8.60 per hour, equating to an annual wage of around £26,000 for 60 hours work per week. The NLW for a person aged 21 and over, increased to £11.44 equating to an annual wage for 60 hours work per week of around £35,000. Based on 5,328 hours of work per year in the EBG, a wage of £8.60 per hour would equate to a wage bill over £45,000.

24. Given the various permutations of the NMW and NLW, of which there are many, there is a scenario where the wages of a younger person may, on a retrospective analysis, have been funded in certain years by the profits made by the enterprise. However, under the EBG labour requirements the business would not appear

capable of achieving profitability. Even using the appellants' evidence of the labour requirements of the business as the best-case scenario, I find that any profit that might have remained after wages had been paid would likely be small and insufficient to provide the business with a reasonable return on its capital investments. Based on the evidence before me, these factors when taken together strongly indicate that the business is not capable of funding its labour requirements and therefore is not financially sound. This casts doubt over whether there would be a sufficient incentive for the owners of the business to keep trading.

25. On the evidence before me, I find no basis to depart from the advice of the Council's expert Agricultural Advisor (AA) on this matter. Whilst the AA's comments refer to funding a new build dwelling, this can be sourced back to the appellants' statement in a superseded May 2023 Equestrian Planning Statement, that was later corrected by which time the AA was no longer able to advise. Nonetheless, the AA's advice was clearly expressed as advising that the enterprise's profits could not fund its labour requirement, let alone a new build dwelling, which is not proposed. They are separate financial considerations in the AA's advice, and this is the basis on which I have considered this issue.

26. The appellants put it to me that profitability is only one measure of financial soundness and that whilst capital purchased diminished profits, it means that the business is financially sound going forwards. Whilst the appellants' business has purchased land which has increased in value, the accounts show that a large proportion is mortgaged, which given my conclusions on the ability of the business to fund its labour requirements, would appear to place a significant financial burden on the business.

27. At the rates indicated in the accounts it will take a long period of time for mortgages to be paid off. Whilst sales have increased, interest payments appear to have risen over the same period, with limited evidence of this trend being reversed. As an indicator of the financial burden placed on the business by its mortgages the appellants' advised during the hearing that around 7 acres of the land purchased a number of years ago has been sold and rented back, with the funds used to reduce the outstanding balance of an interest only mortgage on part of that land.

28. However, there is no documentary evidence of this or its effect on the accounts and the costs of renting back the land would be a cost to the business in any event. Therefore, it does not alter my finding that the mortgages appear to place a significant financial burden on the business, which in addition to the evidence before me in respect of the enterprise's ability to fund its wages, only adds to my concerns over its financial soundness. The willingness of mortgage lenders to fund the appellants' acquisition of land has limited relevance to my considerations and I am not aware of their policies for lending money, or how they are secured. I have necessarily based my assessment on the tests in CBLP Policy DC3, and the evidence before me.

29. The appellants intend to use a permanent planning permission for the dwelling to renegotiate an existing mortgage and raise sufficient funds to complete the extension to the existing equine exercise arena, which obtained planning permission in around 2021. The appellants explained at the hearing that a further temporary planning permission would inhibit their ability to do so, thus thwarting the arena's completion. However, as there is limited evidence of the cost of

completing the arena or the revenue it would generate for the business, I give this factor limited weight.

30. The additional income from hay production which I was advised by the appellants began in 2023, does not feature within the accounts and I have no projections of the profits that could be derived from hay or from future use of the equine exercise arena, or any other expansion of the enterprise. Therefore, I do not have confidence that changes to the business ‘on the ground’ are likely to significantly increase its profitability going forwards. It follows that a further temporary planning permission would not be justified on the evidence before me.

31. The appellants also explained that the business loan for the purchase of the home the subject of this appeal has nearly been fully paid off, however there is no substantive evidence of this before me.

32. Taking all the above into account, I conclude that the appellants have failed to demonstrate that the enterprise is financially sound, contrary to CBLP Policy DC3, insofar as it requires a rural business to be currently financially sound and have a clear prospect of remaining so.

Need for a rural worker to live permanently at the appeal site

33. In granting temporary planning permission for the dwelling the subject of this appeal, the Council followed the advice of the AA, and concluded that the scale and nature of the equestrian enterprise demonstrated a need for a full-time worker employed in the business to live at or very near the stables. In this appeal the AA considers that the number of horses is more or less the same as in 2020, and there is still a need for a full-time worker employed in the business to live at or very near the stables, for reasons including animal welfare.

34. The Council explained at the hearing that in its view the AA had placed too much weight, at the time the temporary permission was granted, on the health risks inherent to horses, the needs of the rescue horse element of the business, and the foals expected to be born. The horse rescue element of the business may have been more sporadic than originally envisaged, few foals have been born and incidences of colic and cast have not led to serious harm to horse welfare or deaths.

35. However, the number of horses kept on the site is more or less the same, and the advice of the Council’s AA has not changed. There is also considerable force to the appellants’ contention that living on the site, having proven a requirement to do so in 2020, has prevented harm to horse welfare, including from colic and cast. To my mind, having lived at the appeal site, it would be unreasonably difficult for the appellants, if not impossible, to provide substantive evidence of the likely consequences to horse welfare had they not.

36. Despite the Council’s strongly held views on this matter, the differences between the scale and nature of the enterprise now and as it was in 2020 are not sufficient, on the evidence before me, to justify departing from the AA’s expert advice. I therefore find that the need for a full-time worker to live permanently at the appeal enterprise remains. I am also not satisfied on the evidence before me that the extent of the changes to national policy since 2020, justify the Council departing from the advice of its AA on this matter. I also find no clear conflict between the

requirements of CBLP Policy DC3 and the AAs expert advice to justify the Council's decision to depart from it.

37. Some similarities exist between the appeal development and a dismissed appeal to retain a dwelling in association with a riding school and livery business in Millbrook[2]. However, I am not aware of the evidence that was put before that Inspector, who found that the circumstances on the site had materially changed since the dwelling was first granted planning permission, and there is no indication that it had the support of the Council's expert AA. Each case must be determined on its own merits and developments of this nature are subject to various site and evidence specific considerations and judgements. Having done so in this appeal, the Millbrook appeal has limited relevance and weight to my considerations.

38. Consequently, I conclude on this issue that there remains a need for a full-time worker to live permanently at or near their place of work in the countryside, consistent with this element of CBLP Policy DC3. However, taken as whole, the enterprise has not been demonstrated as currently financially sound and therefore the dwelling is not demonstrably essential in this location.

Other Matters

39. There are no objections from interested parties and the site is not at risk of flooding. It is common ground between the main parties that the appeal dwelling would cause no harms other than those I have found above, including to the character and beauty of the countryside. However, even if I were to agree, an absence of harm is neutral and does not weigh in favour or against the development. Whilst the Parish Council supports the application its stance does not lead me away from my conclusions on the main issues, which are based on the evidence before me and assessed against the Council's development plan and other material considerations.

40. The Council contends that it can demonstrate a 5.05 year supply of deliverable housing sites with the requisite buffer, whereas the appellants rely upon an Inspector's finding in a recent appeal[3] that the demonstrable supply is currently 4.57 years. Taking the worst case scenario, paragraph 11.d)ii. of the Framework applies and planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

41. Continued occupation of the dwelling would deliver some economic, social and environmental benefits as identified by the appellants, including through contributing to local facilities and services in the rural economy, reusing PDL, and using water efficiently. However, the benefits derived from a single dwelling and its contribution to housing supply would be small and of limited weight in its favour, given the extent of the shortfall.

42. I have found there is not an essential need for a rural worker to live in the appeal dwelling and therefore it is an isolated home in the countryside that does not meet the circumstances in Framework Paragraph 84, and should be avoided. The location of the appeal dwelling would not accord with the Framework's prioritisation for travel by sustainable transport modes. These factors weigh significantly against

[2] APP/P0240/W/23/3330992
[3] APP/P0240/W/24/3348840

the appeal development. As such, the adverse impacts of the appeal dwelling would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the appeal development does not benefit from the Framework's presumption in favour of sustainable development.

43. It was discussed at the hearing that my decision could lead to the occupiers and their teenage sons becoming homeless. However, they derive an income from other sources unrelated to the appeal enterprise and considered they could just about afford to rent a property in the locality. As such, there is a realistic prospect of the appellants being able to access housing nearby and remain living in the same area.

44. I am therefore satisfied that the potential effects of my decision to dismiss the appeal on the rights of the occupiers to a private and family life, and home under Article 1 and Article 8 of the Human Rights Act 1998, with reference to the best interests of the child, are proportionate to the objectives of the planning policies referred to above, which seek to restrict housing in the countryside, cannot be achieved by means that are less interfering of the rights of the appellants' family.

Conclusion

45. On the evidence before me the appellants have failed to demonstrate that the rural enterprise is financially sound and therefore it follows that the appeal dwelling is not demonstrably essential in this location. It therefore conflicts with the Council's spatial strategy in CBLP Policies DC3 and SP7, insofar as it seeks to, amongst others, restrict housing development in the countryside to that which is essential to its functioning, and where the redevelopment of PDL can be made accessible to nearby services and facilities by sustainable modes of transport. This brings the appeal development into conflict with the development plan as a whole. There are no other considerations, including the benefits of the appeal dwelling and the provisions of the Framework, which indicate that a decision should be made other than in accordance with the development plan. The appeal should therefore be dismissed.

G Sylvester

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mrs Lindsay Stokes – Appellant

Mr Sam Franklin MRICS, FAAV, FBIAC – Director, Landscope Land and Property

Mr Ian Taylor MRTPI – Associate Planning Consultant, Landscope Lane and Property

FOR THE LOCAL PLANNING AUTHORITY:

Miss Eilis Edmonds - Senior Planning Officer BA(Hons) MAURP

DOCUMENT PROVIDED AT THE HEARING:

Appeal decision APP/P0240/W/24/3348840 – Sear Farm, Harlington Road, Upper Sandon, Luton LU3 3PE