



Appeal Decision

Hearing held on 13 November 2025

Site visit made on 13 November 2025

by **T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 November 2025

Appeal Ref: APP/C3105/W/25/3371183

Newlands, Shutford Road, Epwell, Oxfordshire OX15 6ER

- 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 Henry Tustian, of J & H Tustian, against the decision of Cherwell District Council.
 - The application Ref is 24/02463/F.
 - The development proposed is described as Agricultural worker's dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for Agricultural worker's dwelling at Newlands, Shutford Road, Epwell, Oxfordshire OX15 6ER in accordance with the terms of the application, Ref 24/02463/F, and subject to the conditions set out in the schedule to this decision.

Main Issues

2. The main issues are:
 - Whether there is an essential need for an additional rural worker's dwelling at the agricultural holding; and
 - Whether the proposed development would harm the character and appearance of the surrounding area.

Reasons

Essential need

3. Situated in the open countryside and remote from existing settlements, the appeal site is within the agricultural holding of Newlands, which is a viable, mixed arable and livestock enterprise. The farm includes two agricultural buildings and yard; 75 acres of farmland; a dwelling, where the appellant lives; and a static caravan, the lawfulness of which remains somewhat uncertain. The appellant farms some further 800 acres of land in the locality by annual arrangement and rents two other buildings for arable storage and finishing cattle. Approximately 265 acres are used for growing arable crops. At the time of the hearing, the livestock holding comprised some 1,500 breeding ewes, a suckler herd of 80 breeding cows, store and finishing cattle and some bulls. Lambing and calving on the farm extend over a nine-month period, throughout the autumn, winter and spring. All breeding cattle are housed for calving in livestock buildings whilst all breeding sheep are lambed in temporary pens in the farmyard.

4. With the recent increase in the number of breeding ewes, the appellant indicated at the hearing that the business now requires a total of approximately five full-time workers when based on standard labour requirement calculations (standard man days). Whilst the Council did not dispute this figure, I agree that it only provides a rough guide and does not give a true picture of the work on the farm. This is borne out by the enterprise currently employing the equivalent of approximately 3.5 people, with the appellant and his son (who currently lives in the caravan) running the farm full-time and their partners essentially managing the administrative side on a part-time basis. Nevertheless, the standard labour figure does indicate that the enterprise is relatively large, as demonstrated by the number of livestock and amount of land farmed.
5. Various work involved in running the farm, such as harvesting and livestock husbandry (such as feeding and checking), can be done during the day, with a check of the animals first and last thing. Such work does not therefore require an additional farm worker (the second worker) to live on site. The appellant also uses contractors for much of the arable side of the enterprise.
6. Lambing is a demanding, 24-hour job. I heard that two people are also required to cover the lambing at Newlands due to for example the age and types of breeds present and the volume of work involved. However, the second worker needed to support the appellant during lambing could in theory work on a temporary basis for the season, with a caravan providing them with short-term accommodation for example. As such, the lambing operation does also not necessitate, on its own, an extra dwelling providing permanent on-site accommodation for a second worker.
7. However, in this instance, the farm has a somewhat unusual, extended lambing season, covering almost five months. Calving also runs across some seven months of the year and occurs concurrently with lambing in several months. The farm's combined lambing and calving activities clearly therefore involve significant work over long hours, including at night, and throughout much of the year. In addition, at the hearing the Council accepted that keeping cattle is very different to sheep, and calving – which is all done indoors at Newlands – does require extra vigilance and observation/action outside of normal working hours.
8. Nevertheless, it has been put to me that suckler cows tend to be hardy, most frequently calve in the morning, and usually unaided. At the hearing, it was also contended that, based on experience, published articles and a study of some 1500 cows in Northern Ireland over several years, 60-70% of traditional breeds calve during daylight hours.
9. If this was the case at Newlands, there may be approximately 20-25 night-time calvings; and of these, some would calve unaided. On this basis, it was suggested that this would not require a second worker to be permanently based on the farm, as the on-site worker (the appellant) can observe the night-time calvings and call the second worker on the few occasions when intervention is needed. However, it was agreed at the hearing that the breeds at Newlands have more issues with calving than more traditional breeds. For example, the sires used result in relatively large, strong calves and this often means that the dam needs help to calve successfully. The applicability of the 60-70% figure for daylight calving was also questioned, both generally and specifically in relation to the appellant's experience at Newlands.

10. Based on the submitted evidence and what I heard at the hearing, it seems that one cannot predict with any real certainty when a cow at Newlands may calve. It is also evident that the breeding cows there require more intervention than may be the case for other (more traditional) breeds.
11. Either way, some of the appellant's herd would calve during daylight hours and not all those calving at night would need intervention or assistance. Nevertheless, that still means that a relatively large number of calving cows and/or calves are likely to need help during the night. In addition, although there are instances where one agricultural worker does manage alone on other farms, this does not mean that it would be safe for either the appellant or the livestock at Newlands; and the main parties broadly agreed at the hearing that two people are generally needed (as identified in various published guidance) to safely handle cattle.
12. From the submitted evidence and what I heard at the hearing, it is clear to me that two people are needed to safely deal with calving at Newlands when interventions are required; and that night-time interventions are not infrequent or unusual occurrences at the farm. So, the question turns to whether the second worker needs to be based on-site or whether they could live nearby and drive to the farm when they are needed at night.
13. It was put to me at the hearing that one can usually see when there is going to be a problem with a calving. On this basis, the second worker could be called upon and thus arrive in time to help before the situation becomes critical or for example prepare the animal for the vet's arrival. However, the appellant disagreed, indicating that in his experience a problem can suddenly occur; and without immediate action, the likelihood of success diminishes. Although some potential issues with calving may be apparent in advance and thus not require urgent action, such as for new dams in general and/or calves needing sufficient colostrum, the submitted evidence and what I heard at the hearing does not lead me to disagree that a problem can suddenly occur and require a quick response.
14. Even if there are various properties in the locality which would be suitable and affordable for a rural worker, it seems to me that it would take several minutes from their receiving a call during the night to arriving at the farm. During poor weather, the time taken could well increase, potentially significantly. With the cows at Newlands requiring more intervention during calving than may be the case elsewhere, and the need for two workers to safely intervene, any delay resulting from the second worker having to travel to the site – especially from up to five miles away, as per the Council's search area – would increase the chance of the potential loss of the calf and/or cow. This would have a consequent financial impact on the farm; or fearing the worst, the appellant may intervene alone, despite the risk to their safety.
15. Not having the second worker within sight and sound of the farm buildings would therefore risk the proper functioning of the farm and its future viability. It would also jeopardise the welfare of the breeding cows (and the calves) and could risk the appellant's safety. Combined with the cumulative effect of the extended and overlapping lambing and calving seasons, the extent of out-of-hours work required at Newlands cannot be considered as simply seasonal or shift work. Whilst veterinary/agricultural students could provide support, may be experienced and are used in the sector in general, they nevertheless need to be supervised, are generally only available for short periods and are not always available at the right

times. In this instance, student placements – even those on a sandwich year – would not therefore be sufficient.

16. Based on the particular circumstances at Newlands, and with the main parties agreeing at the hearing that the existing static caravan does not provide suitable long-term accommodation, I therefore conclude that there is an essential need for an additional rural worker's dwelling at the agricultural holding. Whether the static caravan would ultimately be removed does not lead me to a different conclusion.
17. As such, I find that the proposed development does not conflict with Policies H18 of the Cherwell Local Plan 1996 and Policies BSC1 and Policy Villages 1 of the Cherwell Local Plan 2011 – 2031 (Part 1) (the local plan). Amongst other aspects, these set out the Council's spatial strategy for delivering housing in the district and that permission will only be granted for new dwellings beyond the built-up limits of settlements when it is essential for agricultural undertakings.

Character and appearance

18. The site is located within a rural landscape consisting of rolling hills and valleys, agricultural fields, hedges, trees and dotted woodlands, and contains limited built form. Incorporating part of a field, it positively contributes to the character and appearance of the surrounding area. Although it is close to the highway, the site is not particularly visible in public views due to existing planting.
19. The appeal proposal would lead to an increase in built form in the locality and a small loss of agricultural land. However, the main parties agree that the proposed design and scale of the dwelling is in keeping with its rural setting and it would be similar to other buildings found within rural areas. It would also utilise an existing access, be set behind an area of wildflower planting and, given its position, read as forming part of the existing development at Newlands.
20. It would therefore appear as a sympathetic addition that would respect the area's rural nature and qualities. Although on the edge of the National Landscape and located within views in and out of it, it is also not alleged that the proposal would harm the designated landscape. Based on the available evidence and my site visit, I have no reason to disagree.
21. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area. I therefore find that the proposed development does not conflict with Local Plan Policies C28, C30, ESD13 and ESD15. In part, these seek to ensure development has a high-quality design, complements the character and appearance of the surrounding area and does not cause undue visual intrusion into the open countryside.

Other matters

22. It is not disputed that the site is not in an accessible location. However, as I have found that the appeal proposal would serve an essential need for the agricultural holding, it cannot be located elsewhere. In addition, the second worker being based at Newlands would result in fewer trips to and from the farm. On this basis, I find no conflict with LP Policy ESD1, which seeks to distribute growth to the most sustainable locations and deliver development that reduces the need to travel.
23. The planning application form indicated that, if permission was granted, the appeal proposal would be subject to the general Biodiversity Gain Condition (as set out in

Paragraph 13 of Schedule 7A of the Act). On this basis, the minimum information, as set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, was submitted. However, during the appeal, it was suggested that the proposal would be a self-build development and thus it would be exempt from statutory biodiversity net gain (BNG).

24. Although this was not refuted by the Council, there is nothing (such as a legal agreement) securing the appeal proposal as a self-build dwelling. On this basis, it would not qualify as a self-build development and thus it would not be exempt from BNG. Accordingly, under paragraph 13 of Schedule 7A to the Act, a biodiversity gain plan (BGP) must be submitted to and approved by the local planning authority before the development can commence.

Conditions

25. I have had regard to the various suggested planning conditions and the corresponding discussion at the hearing. I have made amendments as necessary, including for clarity and consistency and to ensure compliance with the National Planning Policy Framework and the Planning Practice Guidance.
26. In addition to the standard time limit condition, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Although the development would be subject to the general Biodiversity Gain Condition, a condition securing details of the proposed methods for enhancing biodiversity within the site is necessary because such detail is not covered in the BGP. In this instance, the condition would not therefore duplicate the deemed condition.
27. Conditions 4 and 5 are necessary in the interests of the character and appearance of the surrounding area. Condition 6 is necessary in the interests of the efficient use of resources. Condition 7 is necessary because a new dwelling on the site is only acceptable in policy terms based on a demonstrated essential need in this location.
28. The PPG indicates that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. However, the discussion at the hearing identified that condition 8 is, in this instance, necessary and reasonable to ensure that the dwelling remains of a size affordable to agricultural workers and would not harm the character and appearance of the surrounding area.

Conclusion

29. For the above reasons, and having had regard to all other matters raised and the submitted evidence, I conclude that the proposed development accords with the development plan. The appeal is therefore allowed.

T Gethin

INSPECTOR

APPEARANCES

For the appellant

Henry Tustian	Appellant, J & H Tustian
Nicola Butcher	Principal Planner, Roger Coy Partnership Ltd (appellant's agent)
Roger Coy	Managing Director, Roger Coy Partnership Ltd (appellant's agent)
Alan Bloor	Associate, Reading Agricultural Consultants Ltd (appellant's agricultural consultant)

For the council

Robert Duckworth	Principal planning officer, Cherwell District Council
Robert Fox	Fox Rural (the Council's agricultural consultant)

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5729/MapA (OS map); 5729/01 (Survey Drawing Site plan); 5729/22B (Proposed Site Plan); 5729/21D (Elevations and Plans).
- 3) No development shall commence above slab level until a method statement for enhancing biodiversity within the site has been submitted to and approved in writing by the local planning authority. Thereafter, the biodiversity enhancement measures shall be carried out prior to the first occupation of the development and retained thereafter in accordance with the approved details.
- 4) No development shall commence above slab level until a schedule of materials and finishes to be used for the external walls and roofs of the dwelling has been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.
- 5) Prior to the first occupation of the dwelling hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the local planning authority. The approved means of enclosure shall be erected in accordance with the approved details prior to the first occupation of the dwelling and shall be retained as such thereafter.
- 6) The dwelling hereby approved shall not be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with this limit thereafter.
- 7) The dwelling hereby approved shall be occupied only by a person solely or mainly employed or last solely or mainly employed in the locality in agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990, including any dependents of such a person residing with him or her or a widow or widower of such person.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A to E of Part 1 of Schedule 2 to the Order shall be undertaken.

END OF SCHEDULE