

## Appeal Decision

Hearing held on 13 September 2016

Site visit made on 13 September 2016

**by Matthew Birkinshaw BA(Hons) Msc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17<sup>th</sup> October 2016**

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**Appeal Ref: APP/L3245/W/16/3147367**

**Holly Farm, Stockhall Lane, Hopton Wafers, Cleobury Mortimer, DY14 0EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Martin Lord against the decision of Shropshire Council.
  - The application Ref 14/03231/FUL, dated 9 July 2014, was refused by notice dated 19 February 2016.
  - The development proposed is a temporary mobile home to establish a business.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. Prior to the Hearing an application for costs was made by Mr & Mrs Martin Lord against Shropshire Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue is whether or not there is an essential need for a new dwelling to accommodate a rural worker at Holly Farm, having particular regard to local and national planning policies which seek to avoid new isolated homes in the countryside.

### Reasons

4. The appeal relates to a small-holding to the north of Hopton Wafers. At present it extends to approximately 5.51ha (around 14 acres) and includes a block of five stables, an open-fronted storage building and a sand paddock.
  5. Situated roughly 900m from Hopton Wafers the appeal site is located outside a defined settlement within the countryside. Paragraph 55 of the National Planning Policy Framework ('the Framework') is therefore relevant. It states that new isolated homes in the countryside should be avoided unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. Policy MD7a of the *Shropshire Site Allocations and Management of Development Plan (SAMDev)* also relates specifically to rural workers' dwellings. Amongst other things it requires proposals to demonstrate that there are no other suitable alternative premises nearby, and that relevant financial and functional tests have been met.
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6. The appellants' starting point is that the proposal is for a mobile home for a temporary period of three years in order to establish a business and should not be considered in the same way as a 'permanent' workers' dwelling. This is because the business has not yet been fully established and the financial and functional tests in SAMDev Policy MD7a cannot be applied in the same way. In justifying this position reference is made to *Planning Policy Guidance Note 7: The Countryside – Environmental Quality and Economic and Social Development* ('PPG7'). This advocated that temporary dwellings should be based on 'a sound financial basis' with evidence of a 'firm intention' to develop the enterprise.
7. However, PPG7 no longer represents current national planning policy. Moreover, whilst it is appreciated that the nature of a mobile home is different to a permanent residence, the appeal scheme still seeks planning permission for a dwelling on the land. Despite assertions to the contrary, paragraph 55 of the Framework and SAMDev Policy MD7a therefore remain relevant.
8. Further guidance on temporary dwellings is also provided in the Council's *Type and Affordability of Housing Supplementary Planning Document* (SPD). Paragraph 3.3 states that "...where a business case is shown, the Council will support applications for temporary dwellings..." As a result, in demonstrating whether or not there is an essential need for the dwelling it is also necessary to consider the likelihood of the proposal subsisting having regard to the business case for the enterprise.

*Need for on-site accommodation*

9. Prior to purchasing the appeal site the appellants had a farm in France with approximately 140ha (roughly 350 acres), used predominantly for breeding pedigree Limousin cattle and sheep. Evidence submitted with the appeal confirms that the farm was almost self-sufficient and the final three years of trading averaged a profit of around €35,000.
10. Since returning to the UK in order to be closer to family Mr Lord's main source of income has come from agricultural engineering and contracting. The appellants' have also established a horse-drawn carriage business with events taking place in 2016 and several bookings secured for 2017.
11. Despite the increasing demand for carriage-hire the appellants' main interest is horses, and both have extensive equestrian experience. In the past Mr Lord was an equine dentist and has also stood a thoroughbred stallion. There is no suggestion that the appellants' are inexperienced handlers, and are clearly hard-working people passionate about horses.
12. Securing planning permission for a dwelling at Holly Farm would facilitate the expansion of the equestrian business. At present there are four horses on-site which includes two Comtois mares. The Comtois is a specialist, hard-working breed well-suited to, and popular with the carriage-driving community. The appellants' two Comtois stallions remain in France and subject to the outcome of the appeal would be brought over to the UK in order to establish a stud and start a breeding programme. This would be carried-out alongside the carriage hire business, and in addition to providing livery services for mares, including horses close to foaling.

13. When explored at the Hearing Mr Lord advised that one of the main reasons for needing an on-site presence is due to the safety issues arising from the unpredictable nature of stallions. This includes the safety of other mares, including those stabled on behalf of clients, and members of the public on the footpath which passes through the site along the western boundary. In support of this point the appellants' recalled instances where stallions have escaped in the past and caused extensive damage. The report by Mr Williams also indicates that obtaining insurance has been very difficult without having any on-site living accommodation.
14. However, although the nature and temperament of stallions is different to mares and geldings, and would therefore require greater supervision, there is no objective evidence to suggest why the day-to-day management of the stallions amounts to the essential need for someone to live on-site. For example, aside from recalling instances where stallions have escaped elsewhere and referring to illnesses such as colic, no specific details have been provided to identify the type and frequency of out-of-hours emergencies that would be likely to occur at Holly Farm.
15. Furthermore, even though the Comtois are large animals, only two stallions are intended to occupy the site. The appellants' also confirm that the horses would be kept away from the main stable block and tethered when out in the field. Subject to a combination of appropriate management practices, signage and fencing, I am therefore not persuaded that their addition justifies a new home in the countryside. Without any substantive evidence the fact that the horses remain in France does not alter this conclusion.
16. One of the main reasons for bringing the stallions over from France is to establish a stud. The proposed breakdown of costs and income suggests that each horse would cover approximately twenty mares during a season at an indicative fee of roughly £300. This would be a commercial enterprise, and as the appellants' point out, completely different to simply keeping horses.
17. When exploring the process during the Hearing the appellants' representatives suggested that at the prices quoted visiting mares would typically be 'walk-ins', with owners booking appointments in advance and attending for the day. It was also confirmed that although not exclusively, covering mares would take place primarily during daylight hours. The process would be a scheduled, supervised one and would be limited to three or four months of the year.
18. It is not in dispute between the parties that the greater the number of mares being covered, combined with the other tasks involved in managing the farm, the longer that Mr and Mrs Lord would need to be on-site for. Nevertheless, no evidence has been provided to substantiate the anticipated level of demand for the stud. When explored at the Hearing the justification was due to the unique nature of the breed in the UK and based on positive comments from people at shows and weddings etc. But even in the event that Holly Farm was the only Comtois stud in the UK and importing horses continued to remain expensive, no firm evidence of this interest, or any actual demand has been presented.
19. Furthermore, Mr Lord accepted that the level of awareness in the stud would likely grow from word of mouth and as people saw the quality of the offspring produced. A similar pattern emerged when he stood a thoroughbred before moving to France. Despite this, such factors are not reflected in the indicative profit and loss accounts.

20. In summary therefore, whilst the appellants clearly have the drive and determination to make a success of the site, for a brand new enterprise dealing with a unique breed in the UK the information provided falls significantly short of a robust case to suggest that the level of stud services is realistic. As such, I am not persuaded that the activities associated with this side of the business would amount to an essential need for the appellants to live on-site.
21. Likewise, aside from stud fees the appellants' intend to generate income from the sale of progeny and boarding client's mares, including horses close to foaling. It is envisaged that there would be five breeding mares with four to five young sold annually, in addition to boarding up to forty horses over the year for clients. Because a horse can go into labour at short notice, and given the health and financial risks from complications, the parties agreed that the intended level of activity would require somebody to be present on site, or at least within approximately 150m to respond to foaling alarms.
22. However, as with the likelihood of attracting customers to pay stud fees, no objective evidence has been provided to substantiate that there is a demand for boarding mares in the area. Whilst I appreciate that predicting demand for any new business is not an exact science, in this case there is no business plan before me or even the most basic market research to substantiate the level of expected trade. There is also no information to demonstrate how the site would function at capacity when taking into account all the other aspects of the proposed business given the amount of land and buildings available. Despite the appellants' indicating that such factors have been considered, and confirming that relevant standards would be met, no details are provided.
23. I am also mindful that successful breeding is not guaranteed, and it would take time before the first offspring were produced. Furthermore, Mr Lord confirmed that in order to add value foals would be kept on-site and broken before being sold-on. It could therefore take a couple of years before the anticipated profits would be realised from breeding. The appellants' reputation for livery services would also take time to establish, yet neither of these factors are set out in the indicative profit and loss accounts. Without a robust business case to reflect such considerations I am therefore not persuaded that the suggested level of activity associated with foaling and livery services has been justified.
24. In reaching this view I have had regard to the report produced by Mr Williams. It states that in order to fully develop the horse breeding side of the business it is essential for on-site living accommodation to provide the necessary supervision within sight and sound of the stock. This is cited as "*a requirement of the equine welfare standards where sufficient staff must be available at all times to give the necessary attention to horses*". Nevertheless, this is not backed-up by any convincing reasons why it is essential for a rural worker to reside at Holly Farm taking into account the specific nature of the activities proposed. Although the report states that there is a proven demand for carriage hire, this is not the same for the proposed stud and livery services. Given the ambiguity surrounding this side of the business it does not justify the siting of a mobile home, even on a temporary basis.

25. It is also pertinent to consider that a significant proportion of the appellants' proposed income is from providing horse-drawn carriages for weddings and social events. At the Hearing it was put to me that approximately eighteen bookings had been secured for 2017 without actively marketing the business. Some enquiries had also been made for 2018.
26. Although the appellants' maintain that the carriage-hire is secondary to their intentions for the site, the indicative cost breakdown illustrates that weddings would account for nearly half of their gross income and a significant number of bookings have already been secured for 2017. Moreover, weddings typically take place during the summer months and the appellants' can travel over an hour away to attend each event. It would therefore directly conflict with Mr and Mrs Lord's ability to pursue other aspects of the business which are cited as needing an on-site presence. Whilst additional staff could be taken on to assist with the carriage-hire, this is not reflected in the proposed costs. Without these factors being adequately reflected in a coherent plan for the site, this only adds to the uncertainty regarding the level of activities that would require round-the-clock supervision.
27. In reaching my conclusion against the main issue I have also taken into account comments that Mr and Mrs Lord cannot afford to pay rent on a house and the mortgage on Holly Farm, that the protracted planning application process has prohibited them from establishing a business, and that this has subsequently affected Mrs Lords' health. However, whilst empathising with the appellants' position and recognising their frustrations caused by delays, these factors do not justify departing from local and national planning policy and guidance which seek to restrict new isolated dwellings in the countryside.
28. In summary therefore, based on the evidence provided I conclude that in the absence of a robust business case to substantiate the expected level of demand for stud, breeding and livery services there is not an essential need for a new dwelling to accommodate a rural worker at Holly Farm. As a result, the proposal conflicts with the Framework which seeks to avoid new isolated homes in the countryside. For the same reasons the scheme is also contrary to SAMDev Policy MD7a which only permits rural workers' dwellings where relevant financial and functional tests are met, and, *Shropshire Core Strategy* Policy CS5 which, despite seeking to achieve a 'rural rebalance', requires proposals for countryside workers' dwellings to demonstrate need. Finally, in the absence of an adequate business case the scheme is contrary to the Council's advice concerning temporary dwellings in the *Type and Affordability of Housing SPD*.

#### *Other Matters*

29. In considering the appeal proposal I note comments that the Council appointed an advisor specialising in agricultural, rather than equestrian matters. Nevertheless, whilst not having the same hands-on experience with horses as the appellants', Mr Field informed the Hearing that he was familiar with the proposal and the issues at hand. As identified above, in this case I agree that the submitted evidence falls short of demonstrating an essential need for a rural worker to reside at Holly Farm. The Council's decision to refuse planning permission was therefore justified.

30. The appellant has also referred to several appeal decisions where planning permission has been granted for housing development outside settlement boundaries throughout Shropshire. However, none relate to dwellings for rural workers, and the circumstances are materially different. Furthermore, I am required to consider the proposal on its specific merits and in this case insufficient evidence has been provided to justify an essential need for a rural worker to live on-site at Holly Farm. In such situations paragraph 55 of the Framework advocates that development should be restricted.
31. Finally, the second reason for refusal refers to Condition no.5 attached to planning permission Ref SS/1/4/16405/F, dated 7 January 2005. This states that the land and buildings on the appeal site shall not be used for livery or commercial purposes. Nevertheless, the proposal seeks planning permission for a dwelling in order to establish a new business. At the Hearing the Council confirmed that it had dealt with the application on this basis, and not for a standalone mobile home.
32. The fact that the appellant has not sought to vary or remove condition no.5 through another planning application process is therefore not a determinative factor in considering the main issue. The Council did not object to the commercial activities proposed at the site or refuse planning permission on grounds relating to highways, the living conditions of neighbouring residents, drainage, lighting or in relation to the management of the site. Based on the details provided I find no reasons to disagree, albeit such a lack of harm is only a neutral factor in the overall planning balance. As a result, it does not overcome the conflict identified with the Framework and relevant development plan policy, nor do the economic benefits associated with expanding the farm.

### **Conclusion**

33. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Matthew Birkinshaw*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

|                              |                               |
|------------------------------|-------------------------------|
| Martin Lord                  | Appellant                     |
| Christa Lord                 | Appellant                     |
| John Needham                 | Chartered Architect           |
| Trevor Williams (RICS, FAAV) | Agricultural Planning Advisor |

FOR THE LOCAL PLANNING AUTHORITY:

|                 |                                  |
|-----------------|----------------------------------|
| Heather Bradley | Planning Officer                 |
| Alastair Field  | Reading Agricultural Consultants |