
Appeal Decision

Hearing held on 3 May 2017

Site visits made on 2 May 2017 and 3 May 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 24 May 2017

Appeal Ref: APP/L3245/W/17/3167346
Llawr-y-Pant Farm, Selattyn SY10 7HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Gareth Roberts against the decision of Shropshire Council.
 - The application Ref 16/02687/OUT, dated 16 June 2016, was refused by notice dated 31 August 2016.
 - The development proposed is an agricultural worker's dwelling and garage to serve an existing agricultural business.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the hearing, the appellants supplied copies of a prior notification application, dated 4 April 2017, to extend an existing shed at the site. As this application is in the public domain and was in the process of determination by the Council¹ at the time of the hearing, I am satisfied that no parties would be prejudiced by my consideration of its content.
3. The appellants also supplied a copy of an appeal decision², which they had sent through to the Council ahead of the hearing. The Council's representative had read the appeal decision and indicated that he had no objections to it being submitted as part of the appellants' case. Therefore no prejudice would arise to any party as a result of my consideration of this previous appeal decision in my assessment of the planning merits of the current case. Copies of the appellant's financial details and farming accounts were provided to me at the hearing. The Council considered their content as part of its assessment of the application that led to this appeal, and there would be no prejudice to any party in accepting this evidence.
4. A copy of a section 106 planning obligation was submitted in advance of the hearing relating to, amongst other matters, the use of the proposed development for affordable housing should the necessity to house an agricultural worker there cease.

¹ Council reference 17/01703/AGR

² APP/A0665/A/12/2188614

5. The application that led to this appeal was in outline with all matters reserved. I have considered the appeal on this basis and treated the submitted plans as merely illustrative insofar as they relate to reserved matters.

Main Issue

6. The main issue in this appeal is whether the proposed development would meet an essential need to accommodate an agricultural worker at the appeal site, having regard to relevant local and national planning policy.

Reasons

Site, surroundings and proposed development

7. Set in a deeply rural environment, in the midst of hilly countryside lined by hedges and studded by mature trees, the appeal site is the corner of a larger open field of an agricultural character, which slopes down from the adjacent road. Separated from the roadside by a level grass verge of substantial width, the appeal site is accessed by a gate within the mature hedgerow which forms its boundary to the north-east.
8. To the north-west of the appeal site and separated from it by a dense boundary of tall conifers, is the large lawn to the rear of Llawr-y-Pant's farmhouse, a stone-faced, two-storey building with a lean-to blockwork extension to one flank. Beyond the farmhouse there is a long traditional agricultural building, faced in stone, that at the time of my visit was in use for the storage of wood and other materials. A mono-pitch roofed building of more modern materials and construction techniques and of a limited scale is sited at the head of the yard in front of the farmhouse. Beyond this, modern portal framed buildings of substantial scale provide a workshop and storage for machinery and other items used in the agricultural contracting enterprise based at the farm. At the time of my site visits large pieces of agricultural equipment were stored on the substantial yard to the rear of the traditional stone-faced agricultural building.
9. The appeal scheme would introduce residential development onto the appeal site, taking the access from the existing field gate. The block plan indicates a dwelling of a broadly L-shaped plan and a detached garage, set within relatively modest grounds.

Policy Background

10. The proposed development would be in the countryside for the purposes of the development plan and located outside of any definable settlement. In these circumstances, Policy CS5 of the Shropshire Core Strategy (adopted March 2011) (the Core Strategy), amongst other things, restricts the development of new dwellings to those necessary to house agricultural or other essential countryside workers. This approach is amplified in Policy MD7a of the Shropshire Site Allocations and Management of Development Plan (adopted December 2015) (the SAMDev), which states that additional dwellings to house rural workers at a site will only be permitted if there are no other existing suitable and available affordable dwellings or other buildings which could meet the need; and that there is a demonstrable functional need for the worker to be present at the enterprise for the majority of the time.
11. These policies are consistent with paragraph 55 of the National Planning Policy Framework, which states in order to promote sustainable development in rural

areas that new isolated homes in the countryside should be avoided unless there are special circumstances, including, amongst other things, the essential need for a rural worker to live permanently at or near their place of work.

Nature of the enterprise

12. The worker who would live in the proposed development is employed in the agricultural contracting enterprise located at the farm. The appellants consider that it is the contracting enterprise that gives rise to the functional necessity for a worker to be housed permanently at the site.
13. The agricultural contracting enterprise is long-established. At the hearing it was suggested that the business predominantly serves a customer base within a five to ten mile radius of the appeal site, although a wider radius of forty miles is suggested in the appeal statement. The business involves maintenance and distribution of large items of agricultural machinery to the local farming community, on remote holdings, often without alternative access to agricultural equipment of the size and capital cost provided.
14. Whilst operations are seasonal, evidence was submitted with the appeal documents showing how the enterprise services year round seasonal agricultural activities. The business provides work for the appellants' family members and also a number of local residents. The farm is also used as a base for the Council's snow ploughs and the worker who would occupy the proposed dwelling has a contract to operate these at times of heavy snowfall.

Functional Need

15. The worker's father is one of the directors of the contracting business and occupies the farmhouse at the site. However, I note from the submitted evidence of the appellants, both orally at the hearing, and in the appeal documents that the bulk of the operation is now overseen by Mr Roberts, the appellant.
16. Although a considerable amount of the contracting operation takes place offsite, the maintenance of the machinery and its preparation for deployment takes place to a substantial degree onsite, as does the management and direction of other workers involved in the enterprise. Whilst varying agricultural activities keep the enterprise busy throughout the year, the contracting business is reactive to the extent that a considerable amount of tasks performed by the machines are sensitive to climatic conditions. Often there are only limited 'weather windows' within which to deploy the machinery effectively. This is the case both in terms of the agricultural machinery and the snowplough contract.
17. These tasks, in addition to emergency call outs to attend to ad hoc machinery maintenance issues which require visits to the farm first before going out on site to attend to the issue, lead to very long hours on the part of the appellant. Submitted evidence indicates that these hours vary over the year between 9 hours a day to over 16 hours a day between 5 and 7 days a week, at unsociable hours, both late night and early morning. A considerable proportion of this time is spent at Llawr-y-Pant Farm.
18. The appellants gave examples of recent thefts from the farm that happened despite of the security measures in place, including the extensive number of CCTV cameras deployed around the site. Indeed, as the incidents involved the

theft of fuel this has led the worker to remove fuel from vehicles at the end of the working day only to fill them up again at the start of the next day, to avoid theft from, and potential damage to, these items. This additional activity has increased the amount of time that the worker is at the site. I am mindful also that the insurance of the enterprise is dependent on a physical presence onsite. I saw that the roadside and relatively isolated location could make it vulnerable to thefts.

19. Therefore taken together, the contracting enterprise at the site is of a nature, scale and extent that clearly establishes a functional need for a worker to be present at the site for the majority of the time. My findings in this respect are lent weight by the considerations of security in respect of the enterprise.
20. I note the Council's concerns regarding the financial sustainability of the enterprise and the limited profit margins shown in the submitted accounts. However I am mindful of the capital value of the machinery at the site, the recent³ and planned⁴ investment, and the ability of the business to raise funds to acquire these items. These latter considerations are indicative of an enterprise of some durability and financial solvency and lead me to the view that the limited profit shown on some of the accounts does not indicate that the business would be financially unsustainable. As a result, the financial sustainability of the business is not a matter that alters my conclusions on the functional need to accommodate a worker at the site.

Alternative Accommodation

21. At the hearing, the parties agreed that a reasonable build cost for the proposed dwelling would be around £120,000. The existing farmhouse on the site is occupied by the worker's father who intends to remain a resident there. Nevertheless, it is an existing dwelling that could provide accommodation for the appellants and their family and help to meet the functional need for Mr G Roberts to be onsite to manage the business operations.
22. Whilst I note that the existing farmhouse is in need of some repair, I have been supplied with no comparative figures to suggest that this would be more cost prohibitive than building a new house. I am also mindful that the appellants consider the farmhouse to be too small and of a layout that would not meet their needs. However, I have been supplied with no estimate of the amount of floorspace provided within the farmhouse and how it would compare with the size of the proposed dwelling which would be limited to 100 SqM of gross internal floorspace in order to meet the requirements of Shropshire's Type and Affordability of Housing Supplementary Planning Document (adopted September 2012). Thus, taking these matters together, it has not been demonstrated that the existing farmhouse would be incapable of housing the appellants and their family.
23. The appellant's father has hearing difficulties and had a cataract operation in the past year, which stopped him from driving temporarily. These and other emerging health issues limit his involvement in the business and due to these, the appellants are required to attend to him from time-to-time extending the amount of time they are at the farm. Whilst this is a matter of some gravity, discussions at the hearing did not conclusively establish that annexe

³ At the hearing reference was made to the recent acquisition of a harvester for £350,000

⁴ In terms of planning application reference 17/01703/AGR

accommodation to the existing farmhouse to meet these needs has been explored as an alternative to construction of a new dwelling at the site. As a result, this matter does not weigh in favour of the appeal scheme.

24. The portal-framed buildings are clearly in use in connection with the contracting business and, therefore, would not be available for conversion to supply additional residential accommodation. However, there is a traditional stone building on the site used for more limited and predominantly domestic storage which may be suitable. The traditional building would need considerable repair and works to facilitate residential conversion; however, I have not been supplied with any figures in this regard to make a comparison with the costs of building a new house at the site. Consequently, it has not been conclusively established that this building would not be available for residential conversion.
25. I note in both the case of the farmhouse and the traditional building to its front that the appellants consider them to be too close to the operational part of the enterprise and have concerns about the safety of their young children as a result of this. The appellants also referenced guidance about the location of dwellings adjacent to agricultural operations of this sort; however, I have not been supplied with copies of this guidance. Moreover, I saw that the gated entrance adjacent to the traditional building was not currently in use for the passage of machinery and whilst equipment was parked near to it during the first of my site visits, I consider that management of the enterprise coupled with an appropriate layout around the building, could mitigate any risks in these regards to a reasonable level.
26. The ability of the worker to reside at the appeal site may lead to growth in the business. However, this would be the case if they lived in existing accommodation at the farm, and as a consequence does not weigh in favour of the proposed development in the overall planning balance.
27. In the appeal statement, the Council referenced the results of a Rightmove property search within a 1-mile radius of the appeal site. Whilst this identified three dwellings only one of these had an asking price roughly equivalent to the build costs of the proposed development and, in any event, at the time of the hearing was no longer on the market. At the hearing, the average price of properties within that immediate catchment was agreed to be significantly in excess of the build costs of the proposed development and, therefore, I am satisfied that no affordable alternatives would be available in the wider environs of the site. However, this consideration does not outweigh my findings in regard to the capability of other buildings onsite to accommodate the worker.
28. Therefore, whilst there is a functional need for the worker to be accommodated at the site, I consider that due to the presence of an existing dwelling on the site and another building that could potentially meet that need, that it has not been demonstrated that the proposed development would meet an essential need to accommodate an agricultural worker at the appeal site. The proposed development would run contrary to Policies CS5 and CS6 of the Core Strategy, MD7a and MD7b of the SAMDev and the Framework. Taken together, these policies seek to promote sustainable development in rural areas by, among other things, ensuring that the development of new isolated homes in the countryside is avoided unless there are special circumstances.

29. In arriving at this conclusion I have been mindful of the appeal decision submitted by the appellants. This decision related to an agricultural contracting enterprise; however, there appears to have been no dwelling existing on the site subject to this former appeal. Therefore, that previous decision can be clearly distinguished from the current case which relates to an additional dwelling on the site and, as a result, does not alter my conclusions in respect of the proposed development's policy conflicts.

Other Matters

30. The appellants consider that living at the site would improve their family life given the long hours that are involved in the business and understandably this is a matter of substantial importance to them alongside the functional needs of the enterprise. I am mindful too that the appellants have not sought to explore a residential conversion of the operational buildings on the site which could be permitted under Class Q of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as this could undermine the sustainability of the business. This latter consideration points to the appellants' desire to support the enterprise, rather than a more generalised intention merely to reside at the appeal site. However, these matters are not, taken together, of sufficient weight to justify departure from the requirements of the development plan in this case.
31. I note references to other agricultural workers' dwellings and other recent residential developments in the wider area. However, the circumstances and material considerations in these cases are not before me. Moreover, each proposal needs to be considered on its own merits. For these reasons, the other developments mentioned carry only minimal weight in favour of the appeal scheme in the overall planning balance.
32. I note the support for the scheme from several respondents both at application and appeal stage. However, these do not, in themselves, justify a departure from the development plan policies.
33. The siting of the proposed development was a matter of common ground between the Council and appellants and, whilst conscious of the outline nature of the application, I consider that its relationship to the other buildings on the site could avoid significant harm to the character and appearance of its surroundings. I also consider that the proposed access would achieve acceptable arrangements for emerging visibility and would avoid significant harm in highway safety terms. In arriving at this latter view I am conscious of the lack of objection to this aspect of the scheme from the Local Highway Authority. However, this is merely evidence of an absence of harm in these regards and not a positive benefit of the proposed development and thus only has a neutral effect on the overall planning balance.
34. In facilitating the appellants' move from their current dwelling in Gobowen, the proposed development could make that property available for a local household. Moreover, the terms of the section 106 agreement would secure the proposed development's use for affordable housing should the essential need for a worker to be housed there come to an end. These are both benefits, but their modest scale and the remote location of the proposed development mean that they weigh in favour of the scheme to only a minimal degree.

35. The proposed development during its construction would result in some economic benefits, including, amongst other things potential employment, and the ordering and supply of materials. However, due to the small-scale of the proposed development combined with the largely temporary nature of these effects, they would weigh in the appeal scheme's favour to only a very modest degree.
36. Thus taken together, or individually, all of these other considerations advanced in favour of the proposed development would not outweigh its conflicts with the development plan.

Conclusion

37. As a result, the appeal scheme would not comprise sustainable development for the purposes of the Framework, and would conflict with the aforementioned policies of the development plan. No material considerations have been advanced that would outweigh this conflict. Accordingly, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mrs Gemma Roberts	Appellant
Mr Gareth Roberts	Appellant
Mr Rob Mills	Les Stephan Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY

Philip Mollineux	Principal Planner, Shropshire Council
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DOCUMENTS submitted at the Hearing

- 1) RA Roberts & Sons Unaudited Accounts for the Year Ended 5 April 2012
- 2) RA Roberts & Sons Unaudited Accounts for the Year Ended 5 April 2015
- 3) Copy of Application for prior notification of agricultural or forestry development-proposed building. Council reference 17/01703/AGR
- 4) Appeal Decision APP/A0665/A/12/2188614