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## Appeal Decision

Hearing held on 9 October 2018

Site visit made on 9 October 2018

**by Elaine Gray MA(Hons) MSc IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> November 2018**

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**Appeal Ref: APP/L3245/W/18/3197995**

**Redhill Stud Farm, Crackleybank, Sheriffhales TF11 8RX**

- 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 Ms Stacey Hancock against the decision of Shropshire Council.
  - The application Ref 17/04653/FUL, dated 23 September 2017, was refused by notice dated 3 January 2018.
  - The development proposed is erection of a dwelling and formation of a vehicular access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and formation of a vehicular access at Redhill Stud Farm, Crackleybank, Sheriffhales TF11 8RX in accordance with the terms of the application Ref 17/04653/FUL dated 23 September 2017, and subject to the conditions set out in the schedule to this decision letter.

### Preliminary Matters

2. The address of the appeal site varies between the application form and the subsequent documents. I have used the version given on the first page of the application form.

### Main Issue

3. The main issue is whether or not the proposed residential development is justified, having regard to the aims of national and local planning policies which seek to restrict new housing development in the countryside.

### Reasons

#### *Background*

4. In 2008, an appeal decision<sup>1</sup> was made allowing development in connection with the breeding and keeping of horses on the appeal site. Temporary planning permission<sup>2</sup> was granted in 2011 for a mobile home and office unit, on the grounds of the functional need of the enterprise. However, this temporary permission expired in 2014, and no application has been made to renew the permission. In 2016, a planning application<sup>3</sup> for the erection of a dwelling was refused, on the grounds that the financial sustainability test was not met.

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<sup>1</sup> APP/J3205/A/08/2078003

<sup>2</sup> 11/01582/FUL

<sup>3</sup> 16/04832/FUL

5. The exact number of horses present on the site varies, due to the nature of the stud and livery operations. However, at the time of the planning application to which this appeal relates, there were 44 horses on site, 22 owned by the applicant, and 22 on a DIY livery basis. The appellant also keeps a small number of farm animals. The Council are satisfied that there is an essential need for a permanent presence on site for the welfare and security of the animals. The Council also consider the scale and design of the proposed dwelling to be appropriate, and I have no basis on which to take a different view.

*Policy context*

6. There is no dispute between the main parties that the appeal site is located outside any development limits, and is therefore in the open countryside for planning purposes. To promote sustainable development in rural areas, paragraph 79 of the National Planning Policy Framework (NPPF) indicates that planning policies and decisions should avoid the development of isolated homes in the countryside unless, amongst other circumstances, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. Policy MD7a of the Shropshire Council Site Allocations and Management of Development SAMDev Plan (2015) seeks to manage housing development in the countryside. Dwellings to house essential rural workers will be permitted if no other suitable dwellings are available, and in the case of a proposed primary dwelling to serve a business without existing permanent residential accommodation, whether the relevant financial and functional tests are met.
8. I have taken into account the appellant's position that Policy MD7a is to be given limited weight on the grounds that NPPF paragraph 79 does not specifically refer to a financial test. However, the development plan, adopted in this case in 2015, forms the basis of decision making. Whilst SAMDev Plan Policy MD7a predates the NPPF, I am satisfied that it is generally compliant with its aims in respect of development in the countryside, and should be given significant weight.

*Whether the proposed development is justified*

9. The Council have voiced concern that insufficient financial evidence has been submitted, and they contend that full accounts are required for consideration. Whilst I acknowledge this position, I note that there is currently no specific guidance within policy, or in the form of a supplementary guide, setting out the Council's detailed requirements for the information they wish to see. To my mind, this leaves a degree of leeway in terms of considering each case on its individual circumstances.
10. Nevertheless, in support of her case, the appellant has provided year end accounts for the years 2014 – 2018, and also submitted a tax record dated 5 April 2018 at the hearing. She considers the production of full accounts to be unjustified and unnecessary in respect of the requirements of the relevant policies.
11. At the hearing, the Council confirmed that they are willing to take both the revenue from the stud and the livery into consideration, and I am satisfied with that approach. The submitted accounts show that the business has been in

profit for the last four years. However, the Council are concerned that the records do not allow for a contingency wage in the event that Ms Hancock was unable to continue to run the enterprise. The Council indicate that such a wage should be set at £16,500. In response, the appellant stated that, if she was unable to continue in her role, her partner and/or sons are sufficiently knowledgeable and experienced to be able to take over the business. In addition, the appellant confirmed that insurance measures are in place to cover such an eventuality. I am therefore reassured that the business would be sustained if the appellant could not continue in her current role.

12. In the absence of full accounts, the Council have employed a number of standard assumptions which were derived in accordance with guidance in the now superseded Planning Policy Statement 7: Sustainable Development in Rural Areas document. The appellant does not dispute these assumptions. Working on the Council's figure of £6000pa to service a mortgage for the new house, this would give rise to a cost to the business of £500 per month. The evidence before me shows that the appellant has been servicing a 10 year business loan on a repayment of £600 per month. The appellant has submitted evidence confirming that the loan has recently been paid off, making available to the business a monthly sum that would cover the Council's estimated mortgage repayment.
13. With respect to the cost of the new house, the appellant additionally stated that 'sweat-equity' would be utilised, bringing the build cost to approximately £70,000. I note that this approach accords with the guidance set out in the Council's 'Type and Affordability of Housing Supplementary Planning Document' (SPD).
14. From the submissions before me, it is evident that the business has been established for some time, and has clearly grown since 2008, undoubtedly helped by granting of a temporary permission for the mobile home. Although I have not been furnished with a formal business plan, on the basis of what I have seen and heard, I have no reason to doubt the appellant's commitment to her business and its future growth.
15. Drawing the above factors together, I have seen that the business is a profitable stand-alone enterprise which is capable of meeting the associated costs of the development and, as required in SAMDev Plan Policy MD7a, the appellant has demonstrated that the cost of the dwelling can be funded solely by the equestrian business. I therefore conclude that the proposed residential development would be justified, and would accord with SAMDev Plan Policy MD7a, and paragraph 79 of the NPPF.

### **Other Matters**

16. I have had regard to the concerns raised by interested parties, including the effect of the proposal on the use of the private road from the A41 to the appeal site. These concerns relate primarily to business traffic, and the provision of passing places on the lane. However, the appeal scheme relates to a new dwelling, which would replace an existing temporary dwelling. As a result, there is little basis to conclude that the scheme would give rise to any additional traffic on the lane. Any expansion of the business activities would fall to be considered independently of the appeal proposal. I note that the Council have raised no concerns on highways grounds, or in relation to the

destruction of a hedge to achieve an access, and there is little detailed evidence before me relating to the matters that have been alluded to.

### **Planning Obligation**

17. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) requires that if planning obligations are to be taken into account in the grant of planning permission, those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.
18. The appeal is accompanied by a signed and completed section 106 agreement which provides that the proposed dwelling will default to affordable housing if no longer required for an essential rural worker. In such a circumstance, the appropriate affordable housing contribution will be paid to the Council. The agreement is not in contention in this appeal. I am satisfied that the agreement meets the tests set out in the CIL regulations, and I have therefore taken it into consideration in my decision.

### **Conditions**

19. The Council have suggested a number of planning conditions which were discussed at the hearing, and which I have considered against the relevant advice in the Planning Practice Guidance (PPG). As a result, I have amended some of them for clarity and brevity, or substituted alternative text.
20. In addition to the standard time limit condition, for certainty, it is necessary that the development is carried out in accordance with the approved plans, as referred to in the Document issues Sheet (13/03/2018). A condition relating to materials is appropriate in the interests of character and appearance. At the hearing, it was agreed that this condition did not constitute a pre-commencement condition.
21. A condition seeking the removal of the mobile homes following the first occupation of the development is required to avoid the proliferation of housing in the open countryside. I have taken into account the appellant's suggested re-wording of this condition to allow the structures to remain for purposes incidental to the enjoyment of the new dwelling. However, the structures are unauthorised, and so such a condition would not be relevant or appropriate.
22. A condition restricting permitted development (PD) rights is justified in this instance in order to limit the size of the dwelling in accordance with the (SPD). Finally, a condition limiting the occupation of the new dwelling is appropriate to ensure that it remains available to meet the needs of the business.

### **Conclusion**

23. For the reasons above, I conclude that the proposed development would comply with the development plan as a whole, and so the appeal is allowed.

*Elaine Gray*

INSPECTOR

## **APPEARANCES**

### For the Council:

Olivia Wojniak	Consultant
Elizabeth Atwood	Case Officer

### For the Appellant:

Ms Stacey Hancock	Appellant
Mr Robert Mills	Agent

## **DOCUMENTS RECEIVED AT THE HEARING**

Personal Tax Computation – 5 April 2018

## **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: 1865 01 (Location plan); 1865 02; 1865 03; 1865 04; 1865 05.
- 3) Prior to the above ground works commencing, samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details.
- 4) Within one month of the first occupation of the rural worker's dwelling hereby permitted, the existing mobile homes on the site shall be removed.
- 5) Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no development falling within Classes A, B, C and E of Part 1 of Schedule 2 of the said Order shall be carried out without the prior written permission of the local planning authority
- 6) The dwelling hereby permitted shall only be occupied by a person solely or mainly employed, or last employed, in the equine enterprise as Redhill Stud Manager, or dependents of such a person residing with him or her, or a widow or widower or surviving civil partner of such a person.