



Appeal Decision

Hearing held on 6 December 2023

Site visit made on 6 December 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/L3245/W/23/3321853

J Gwilliam & Sons, Upper Farm, Guilden Down, Clun, Craven Arms, Shropshire SY7 8NZ

- 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 Shenton Gwilliam of J Gwilliam and Sons against the decision of Shropshire Council.
 - The application Ref 22/03988/FUL, dated 24 August 2022, was refused by notice dated 26 January 2023.
 - The development proposed is erection of an agricultural occupancy restricted dwelling with a detached garage, installation of septic tank.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity on the site location, the address above is taken from the signed statement of common ground.
3. Subsequent to the hearing event, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. Insofar as it is relevant to the matters at hand in this appeal, the Framework is consistent with the previous iteration. References to the Framework in this decision are to the new paragraph numbers.
4. The site is located within the River Clun catchment which feeds into the River Clun Special Area of Conservation (SAC). SACs are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The potential impact on the SAC did not form a reason for refusal but was raised as an issue in the Council's appeal statement. In the event that the appeal was to be allowed, the Habitats Regulations would require that I undertake an Appropriate Assessment in relation to the effect of the proposed development on the integrity of the SAC. I return to this under Other Matters.
5. Natural England (NE) were consulted with respect to potential impacts on the SAC. The hearing was adjourned to allow the main parties to comment in the event of a NE response being received. No NE response was received after the deadline passed. Therefore, the hearing was closed in writing on 21 December 2023.

Main Issue

6. The main issue is whether there is an essential need for an additional rural worker to live permanently at the appeal site in the countryside, having regard to:
- the functional need of the farming enterprise;
 - the suitability and availability of any alternative accommodation; and
 - whether the proposal is acceptable with respect to affordable housing.

Reasons

7. The appellant lives in the farmhouse at the appeal site and manages the farm. His parents are retired but also live on the farm in converted holiday accommodation¹. That house is restricted by an agricultural occupancy condition. The appeal scheme is for a new dwelling to accommodate a rural worker (assistant farm manager) to assist the appellant with the day to day running of the farm. This is currently intended for the appellant's son.
8. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015) (the SAMDev Plan) permits essential rural worker dwellings in the countryside where certain criteria are met. Therefore, I now consider the proposal in light of each of these.

Functional Need

9. The farm enterprise comprises three main areas: arable, rearing sheep and poultry. The main parties agree that the labour requirement for the farm amounts to an equivalent of 8.78 full time workers. The farm employs three full time staff, including the appellant and his son, and one part time member of staff. In addition, seasonal workers are employed at peak times.
10. The main component of the labour requirement is the 180,000 to 200,000 bird broiler unit which produces circa 1.4 million chickens per year, within four poultry barns. This requires daily checks of the poultry sheds at three intervals during the day. The first of these can take two to three hours and the remainder, an hour each, amounting to a not insignificant time commitment every day.
11. There is a high degree of automation controlling the temperature, food and water supplies in the barns. This includes alarms that are activated if there is a problem with any of these systems. Although connected to staff mobile phones, a failure to respond rapidly enough could lead to animal welfare issues. This is due to raised stress levels for the birds where the heating, food or water supplies are interrupted. Increased stress is also said to make the birds more susceptible to infection with implications for productivity.
12. Response to these alarms is particularly time critical on hot days in summer months when a failure of the ventilation system could quickly lead to harmful temperatures for the birds. However, a rapid response is also important in cold weather when there are young chicks.

¹ Granted November 2003 (Ref SS/1/03/14772/F)

13. Accordingly, there is a need for a suitably trained member of staff to be available to respond to an issue with any of these systems, 24 hours a day, when the barns are in use. The barns are only empty for approximately one week in every seven. Therefore, the need for 24 hour monitoring is for the majority of the year.
14. The appellant advised that it is not unusual for the alarms to be raised and require attendance on two to three nights per week. Furthermore, approximately every 7 weeks there is a need for one member of staff to work several nights in a row to oversee the loading of birds onto lorries to leave the farm. This can generally be carried out by either the appellant or his son, but in addition to the daily work commitments this results in particularly long working hours on those occasions. Therefore, it is reasonable for the appellant to share the responsibility of the 24 hour a day presence on site with another suitably skilled worker in order to make his role manageable.
15. Whilst shift work could ensure there is a worker other than the appellant present on site at all times, it would not be reasonable for a trained poultry worker to be present on site throughout the night with no duties other than awaiting an emergency. Moreover, this would not be an efficient use of resources and would not reasonably justify employing more staff to meet the need for night time cover.
16. Additional work commitments include the rearing of 350 ewes. Outside of the intensity of lambing season, ewes still require daily checks and the ability of a staff member to respond in the event of an emergency. The arable farming business is another, smaller part of the farming enterprise that requires farm manager or assistant farm manager input during the day. Furthermore, general farm management and maintenance is said to be in addition to the 8.78 labour requirement. Consequently, this adds to the working hours of the appellant and his son as manager and assistant farm manager, respectively.
17. Accordingly, the work demands of the enterprise amount to a functional need for an additional full-time worker to be permanently resident at Upper Farm. This is necessary to farm in a responsible manner, maintaining animal welfare and that of the farm workers.
18. In coming to this view, I am mindful that at the time of granting planning permission for the change of use of the holiday accommodation to an occupancy restricted dwelling, the Council accepted that there was a need for two rural workers to live on the farm. Moreover, since that time the main parties agree that the farm has expanded with the addition of the poultry rearing enterprise. Notwithstanding the use of technology in managing the poultry barns and for security purposes, the expanded enterprise and its 24 hour nature further supports the justification of the current functional need for two workers to reside on site.
19. The appellant's son is currently living circa 10 minutes away from the site. However, even this relatively short commuting time could result in undue delay in responding to the alarm system, particularly in inclement weather, resulting in unacceptable risks to livestock.

Alternative Accommodation

20. From the evidence before me and my observations on site, all existing farm buildings appeared to be fully utilised, including the stable used to house poorly stock and orphaned lambs. Therefore, I am not persuaded that any would be suitable and available for conversion to residential accommodation.
21. The appellant's farmhouse contains three bedrooms, one of which is unoccupied. Albeit that room is said to be small with a single bed. Consequently, it would be unlikely to provide satisfactory living accommodation for an adult rural worker, particularly in the event that it was for a non-family member.
22. The house currently occupied by the appellant's parents would likely be suitable to accommodate a rural worker. Nevertheless, it is not currently available for that purpose and there is no evidence before me to suggest that it is likely to become available in the short to medium term.
23. However, no robust evidence was provided of a search of suitable and available alternative properties in the vicinity. At the hearing reference was made to a recent property search conducted by the Council using the Rightmove website. Whilst anecdotal evidence, this identified a barn conversion currently for sale at Guilden Down with an asking price that the appellant advised is below their budget for the appeal scheme. Full details of that property are not before me. However, the appellant was aware of it, and it was pointed out to me on the site visit, located in a courtyard arrangement close to the existing farmhouse.
24. Given the proximity of that property to the appeal farm it would appear well located to enable a rural worker to respond quickly to events on the farm during the night. It is unclear why the size of that property and its proximity to other dwellings would preclude its suitability for rural worker accommodation, even for a suitably qualified non-family assistant farm manager. I see no reason to conclude that noise from night time comings and goings by a rural worker would be any more intrusive to neighbours than might occur from any other worker that operates on-call or involves shift work.
25. Without substantive evidence to the contrary, this leads me to conclude that it is likely that there are suitable alternative properties that could meet the functional need.

Affordable Housing

26. The proposed dwelling of 106sqm exceeds the recommended size for a secondary rural worker dwelling of 100sqm as set out in the Council's Supplementary Planning Document Type and Affordability of Housing (September 2012) (SPD). The additional 6sqm is explained with regard to the need for an office area, as well as a utility room and downstairs bathroom in order for the occupant to remove dirty farm clothing and wash before entering the main living area of the house. Having regard to the proposed floor plan (Ref SK01 A), that appears to be a reasonable justification for an additional rural worker dwelling here. Moreover, the proposed layout of the remainder of the ground floor does not appear excessive in comprising a lobby, kitchen and living room.
27. The proposed floor plan shows two bedrooms within the roof space which also do not appear excessively large. Although there may be scope to increase the

useable floorspace within the roof in future, such internal alterations do not form part of the appeal scheme. In any event, no substantive evidence indicates that such alterations would result in the floorspace being excessive for a rural worker and their family, or as an affordable home in the future.

28. Policy MD7a part 2.c. of the SamDev Plan requires that proposals for an additional rural worker dwelling are subject to an occupancy condition. In the event that the appeal was allowed, such a condition could reasonably be imposed here. Accordingly, following implementation, any future change of use to general affordable housing would require an application for removal of that condition. At that stage, a restriction to retain its future use as affordable housing, or payment of an appropriate affordable housing contribution, could be sought in line with Policy MD7a part 2.c. This was not disputed by the Council.
29. Therefore, the proposed dwelling size would be acceptable having regard to the SPD and its potential future use as affordable housing.

Overall Findings on Essential Need

30. A functional need for an additional rural worker to live on site has been demonstrated. The proposal is also acceptable with regard to its size. Furthermore, a suitable condition could satisfactorily address its future affordable housing use or contributions to off site affordable housing.
31. However, it has not been demonstrated that there is an absence of suitable and available alternative accommodation that could meet this need. As such, the proposal would conflict with SAMDev Plan Policy MD7a part 2.a. in respect of availability of alternatives. Similarly, the likely availability of alternative accommodation undermines the justification of the need for an agricultural dwelling in the countryside, as required by Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) (Core Strategy).
32. Further, whether or not the proposal amounts to an isolated home, due to the likely presence of alternative accommodation it would not satisfy paragraph 84.a) of the Framework in respect of there being an essential need.

Other Matters

33. The appeal site is located within the Shropshire Hills Area of Outstanding Natural Beauty (now known as a National Landscape). Given the location of the proposed dwelling in proximity to other buildings and its modest scale, it would not harm the landscape or scenic beauty of the National Landscape. This is a neutral factor in the balance.
34. There are a number of grade II listed buildings in the vicinity of the appeal site. This includes the Barn adjoining Upper Farmhouse to West; Guilden Down Farmhouse; No. 5 and attached former Cowhouse to South; and Cowhouse approximately 5 metres to South of Guilden Down Farmhouse. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed buildings or their setting, or any features of special architectural or historic interest which they possess.

35. However, there is nothing to indicate that the appeal site has a particular historic resonance with the listed buildings other than being a small part of a broad setting. I have also had regard to the modest scale of the proposal, the degree of separation with the listed buildings and the presence of other existing built form. Consequently, the appeal scheme would not harm the setting of the listed buildings.
36. The proposal would provide one new dwelling and would generate employment during its construction. Although the future occupant would not need to travel by private car to work, they would be reliant on use of a private vehicle in order to access services and facilities. Therefore, any sustainability benefits of the proposal would be limited. There would be some modest benefit arising for the agricultural enterprise and its continued contribution to the rural economy. In addition, there would be some small personal benefit for the appellant and his son in terms of reducing travel time and costs. However, due to the potential for the functional need for a dwelling to be satisfied by existing accommodation, such benefits attract only limited weight.

River Clun SAC

37. The SAC is designated for the presence of the freshwater pearl mussel. Evidence before me shows that the water quality in the SAC is in an unfavourable condition due to high nitrogen and phosphorous levels. Therefore, the freshwater pearl mussel is considered to be in serious decline. Consequently, nutrients entering the catchment upstream has the potential to result in a further decline in water quality within the SAC.
38. The appeal scheme incorporates a septic tank, but no details of the septic tank are provided. For example, calculations on sewage generation, septic tank capacity, equipment maintenance and information on how that would be secured for the lifetime of the development. Therefore, adopting the precautionary approach, the proposal has the potential to result in significant effects on the SAC, either alone or in combination with other developments. Consequently, in the event that the appeal was to be allowed, an appropriate assessment would be required.
39. However, the proposal conflicts with Policy MD7a of the SamDev Plan and Policy CS5 of the Core Strategy, as set out above. As such, unless other material considerations indicate that planning permission should be granted, there is no need for me to consider this matter further.

Conclusion

40. The proposed development would be within the open countryside where there is a presumption against new residential development. This attracts significant weight and outweighs the combination of its benefits.
41. Therefore, the proposal would be contrary to the development plan as a whole, and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachel Hall

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Shenton Gwilliam	Appellant
Robin Hooper	Agent, Hooper Enterprise Associates Limited T/A HEAL Associates

FOR THE LOCAL PLANNING AUTHORITY:

Louise Evans	Principal Planning Officer
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