



Appeal Decision

Hearing Held on 2 December 2020

Site visit made on 3 December 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/L3245/W/20/3258456

The Stables, Booley Road, Stanton Upon Hine Heath SY4 4LP

- 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 J Start & Ms C Bayliss against the decision of Shropshire Council.
 - The application Ref 19/04631/FUL, dated 10 October 2019, was refused by notice dated 16 March 2020.
 - The development proposed is erection of an occupational dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the hearing, a signed and dated section 106 planning obligation was submitted. On the basis that it is complete, I have taken into account.

Background and Main Issues

3. The appeal site is a parcel of grazing land adjacent to Booley Road. It forms part of a 10.5 acre holding that was originally granted planning permission¹ in 2006 for the change of use of agricultural land to private equestrian use. Permission was granted the following year for stable blocks for private use. The commercial breeding of Lustiano horses and the livery use, which collectively form the appellants business at the site, was permitted in 2010.
4. In 2011, permission² was granted for the temporary siting of a rural worker dwelling, on the basis of an essential functional need in connection with the importing and foaling of Lustiano mares. In 2014, permission was granted to allow the temporary siting of the dwelling until 2019. On 26 October 2020, following the refusal of the application subject of the appeal and after the appeal was made, permission³ was granted for the retention of the existing temporary occupational dwelling for a further 3 year period.
5. The essential functional need for a rural worker to live permanently at the site has been established and it is not disputed. The appeal proposal is the replacement of the temporary dwelling with a permanent rural worker dwelling.

¹ ref NS/06/01074/FUL

² ref 10/05482/FUL

³ ref 20/03103/FUL

6. Therefore, the main issues in the appeal are:
- i) Whether the rural business can finance the dwelling;
 - ii) Whether the proposed dwelling would be suitable for a rural worker dwelling; and
 - iii) Whether the personal circumstances of the appellants and other considerations outweigh any harm in respect of the development.

Reasons

Whether the dwelling would be suitable for a rural worker dwelling

7. The appeal site is beyond the village of Stanton Upon Hine Heath, in the countryside. It shares a highway access with, and it is close to, the temporary rural worker dwelling. The 10.5 acres of pasture is subdivided into paddocks with field shelters and there is a single stable block and a manege.
8. The proposed single storey dwelling would have internal gross floor space of 111 square metres. There would be less than 90 square metres of residential accommodation comprising 2 ensuite bedrooms, a kitchen and a sitting room. In addition, there would be a business office, boot room and shower room. Irrespective of the Council's concerns about the layout, the parties agree that the internal floor space is acceptable for a rural worker dwelling and the primary dwelling for the business. Moreover, although large, I agree with the appellants that there are practical needs for the boot room and shower room.
9. However, the Council considers that the scale and design of the dwelling is not proportionate to a rural worker dwelling because additional habitable rooms could be created in the roof space. In this regard, the proposed roof design would create a large extent of roof space that would be suitable for conversion to first floor living accommodation. Furthermore, it seems reasonably likely that future occupiers would seek to enhance the property in this way.
10. The parties agreed planning conditions in advance of the hearing. Among other things, these would remove permitted development rights, including in relation to rooflights, and restrict the creation of further habitable space by internal alterations. The s106 planning obligation would ensure, among other things, that no additional internal accommodation was created at ground or first floor level or within the roof space unless agreed in writing by the Council. While I acknowledge the concerns of the Council as to whether internal alterations could be controlled by condition, collectively the conditions and obligation would restrict the creation of additional living accommodation.
11. I have also had regard to Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted December 2015 (the LP). In setting out the criteria for rural worker dwellings, it distinguishes between primary dwellings to serve a business without existing permanent residential accommodation and additional dwellings to provide further accommodation. Additional dwellings are treated as affordable housing and subject to size restrictions, but there is no restriction on the size of primary dwellings. The supporting text confirms this, although there is an expectation that the scale and type of a new primary dwelling will be closely related to the evidenced needs of, and proportionate to, the business.

12. Therefore, irrespective that future occupiers might seek to create additional living accommodation, I find that the proposed rural worker dwelling would be acceptable, with particular regard to its function as a primary dwelling for the business and in relation to the needs of a family and a business. Consequently, subject to conditions and the s106 obligation, the proposed dwelling would not conflict with the rural housing aims of Policy MD7a of the LP or the guidance in the Shropshire Council Type and Affordability of Housing Supplementary Planning Document Adopted September 2012 (the SPD).

Whether the business can finance the dwelling

13. In the case of primary rural worker dwellings, Policy MD7a of the LP requires that relevant financial tests are met, the business is demonstrably viable in the long term, and that the cost of the dwelling can be funded by the business.

14. Financial information relating to the business has been provided for the years 2015-2016 onwards. Although this shows yearly profits roughly between £7,000-£20,000, the information is not in the form of fully detailed or audited business accounts. It does not include business costs such as utilities, salary, the cost of the exercise paddock in 2016-2017 or miscellaneous items like the fees for Ms Bayliss's equine science degree course. The most recent larger profit was in part due to horse sales in April 2020. In this regard, while the 2019-2020 accounting period ran from 31 April 2019 until the end of April 2020, this is not consistent with the previous years' accounting periods which ran from the beginning of each April.

15. The business has been established for several years, during which time it has provided an income. However, while Ms Bayliss lives frugally within her means, it is reasonable to expect the business to provide a living wage. It has not been demonstrated that this has been the case for many of the years that the business has operated. In the absence of detailed accounts that include full costs, including wages, I cannot be certain that the financial information is an accurate or reliable indication of the profitability of the business.

16. There is evidence before me about the future development of the rehabilitation and physiotherapy service, including the prices of treatments and the possible income. I accept that the income from this part of the business could increase over time and I do not doubt the appellants' commitment and intention to expand and increase the business offer. However, the information does not constitute a business plan for the rehabilitation service, the Lustiano horse sales and livery business.

17. There are no predictions in relation to future profits, taking into account full business costs including equipment, resurfacing of the exercise paddock or the building of the additional stable block. Moreover, given the evidence that Ms Bayliss has historically carried out work with a labour requirement in excess of 2 full-time workers, it seems likely that any business expansion would require additional labour. Even accepting that the rehabilitation service would increase the profits, it has not been demonstrated that the business would fund a wage for one rural worker let alone more.

18. The appellants estimate that the dwelling would cost £130,000 based on a build cost of £1,300 per square metre. Although there is no substantive evidence that this is a reasonable estimate, in any case, based on an internal floor area of 111 square metres, the build would cost in excess of £144,000.

This could be reduced if the appellants undertook some of the work themselves but, given they both work full-time, it is not clear what building works they could carry out or that this would significantly reduce the overall cost.

19. In terms of the finance for the dwelling, evidence submitted with the appeal indicates that the entire build would be financed by a loan, which would be converted into a 20 year mortgage. Although the appellants spoke with a financial advisor, no such advice has been provided nor is there any evidence such as correspondence from a mortgage lender to demonstrate that the business could borrow the required amount or that the mortgage term could be secured.
20. At the hearing, Ms Bayliss stated that she would not need to borrow the full build cost as she has a deposit saved from the previous years' business profits. While this could reduce the loan and the subsequent mortgage, no substantive evidence has been presented in this regard and the evidence that is before me indicates that the business has, at best, made generally small to modest profits before any salary has been taken.
21. It was suggested at the hearing that, as the dwelling would be owned by both Mr Start and Ms Bayliss, the business would not need to meet the full build cost or the mortgage. Policy MD7a of the LP is clear that the cost of an essential rural worker dwelling should be funded by the business. In this regard, while the appellants live together and Mr Start contributes towards their joint finances, he is not employed in the business. While I accept that they could jointly afford a permanent dwelling, this does not demonstrate that the business could fund it in the absence of additional income.
22. Therefore, the proposal fails to demonstrate that the business is viable in the long term and that, by itself, it could fund the cost of a permanent rural worker dwelling. Consequently, the proposal fails to accord with the requirements of Policy MD7a of the LP.

Personal Circumstances and Other Considerations

23. The parties agree that the appearance and design of the dwelling would not be out of character in the landscape. The Council has raised concerns however that the dwelling would be on sloping ground and no cross sections have been provided to illustrate how a level development platform would be created. On the basis that the fall across the dwelling footprint would be approximately 300mm, I am satisfied that there would be no significant excavation or land raising such as would result in harmful visual impacts.
24. The equine business contributes to the local rural economy, through support for other rural businesses. While Ms Bayliss purchases feed and has rugs washed on occasion, the business rarely requires the services of a veterinary surgeon and she carries out the work of a farrier in relation to foot trimming. On this basis, the proposal would make a limited contribution to the local economy. I accept that the Parish Council support the proposal and consider that the appellants are valued members of the local community. Nevertheless, one dwelling would make a negligible social contribution to the local community.

The garage

25. The garage would be in a prominent location to the front of the dwelling. By virtue of its small footprint with eaves and ridge height to match the dwelling,

it would be a conspicuous and disproportionately tall feature. It would be a discordant feature that would be out of proportion with the dwelling.

26. The appellants have sought to justify the height of the garage on the basis of storing a horse skeleton above vehicles, the parking of a horse wagon and for the siting of solar panels. Even if the skeleton was essential to the business, it would not provide a justification for the height of the residential garage. The garage doors are in the side elevation beneath the single storey eaves, which would prevent tall vehicles from being parked in the garage. On the basis that the dwelling would have a large roof, I am not persuaded that solar panels could not be installed at the site, even in the absence of the garage.
27. Therefore, I find that the garage would conflict with the design aims of Policy MD2 of the LP and Policy CS6 of the Shropshire Local Development Framework Core Strategy Adopted March 2011. It would also conflict with the design aims of the National Planning Policy Framework. At the hearing, Mr Start indicated that the appellants would be amenable to reducing the height of the garage. No alternate garage plans have been submitted to demonstrate an acceptable alternative. Nevertheless, the garage is clearly separable from the dwelling such that if the appeal was allowed it would be possible to issue a split decision allowing the dwelling but refusing the garage.

The residential land associated with the dwelling

28. The residential land defined by the red line boundary is slightly larger than the 0.1 hectare maximum plot size recommended in the SPD for a single affordable home. The constraints of the site, including the temporary dwelling, the overhead power lines and the highway access, have resulted in a long internal access track, but the garden land around the dwelling would be smaller than an affordable plot. In any case, the proposal would be the primary dwelling for the business and not an additional dwelling such as is treated as affordable housing and subject to size restrictions under Policy MD7a of the LP and the SPD.

Personal circumstances

29. The appellants have been living in the temporary dwelling at the site for roughly 9 years, during which time Ms Bayliss suffered a serious spinal injury as a result of a fall. Their desire for a more comfortable permanent dwelling where they can entertain family, including grandchildren, is therefore understandable. The appeal also heard that Ms Bayliss's has aging parents with health issues. Although the parents live independently, the proposal would allow her to care for them in the future if necessary. I acknowledge that the temporary dwelling does not allow the appellants to live as they might wish and, in this regard, a permanent dwelling would clearly be a private benefit to them. Nevertheless, their personal circumstances do not outweigh the conflict with the development plan.
30. While the temporary dwelling might not give a good first impression of the business, I am not aware that the business has been significantly disadvantaged by the current arrangements.
31. As noted previously, the Council has recently granted permission for a further extension of time for the siting of the temporary dwelling. I understand that the appellants do not want to live in temporary accommodation long-term and this would not be their preference. Notwithstanding, it allows them to continue

to live at the site and it provides the opportunity to produce detailed financial accounts and a costed business plan to evidence that the business is viable and that it can fund the cost of the dwelling.

The s106 planning obligation

32. In addition to securing the size of the dwelling, the planning obligation would ensure that if the dwelling was no longer required as a rural worker dwelling, and the agricultural occupancy restriction was removed, a financial contribution to the provision of affordable housing would be made. This would offset the harm resulting from the creation of an unrestricted dwelling in a countryside location which is contrary to the Council's housing aims. Consequently, while it would be a small benefit, it carries limited weight in favour of the proposal.

Conclusion

33. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms C Bayliss (appellant)

Mr J Start (appellant)

Mr Ian Jamieson (Bleazard and Galletta LLP, Planning Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Denison

Mr Philip Mullineux

INTERESTED PERSONS:

Mrs Nuria Gray (the Parish Council)