



## Appeal Decision

Hearing (Virtual) held on 11 January 2022

Site visit made on 12 January 2022

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 8 February 2022**

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### **Appeal Ref: APP/L3245/W/21/3276073**

#### **Little Acorns, Adderley Road, Spoonley, MARKET DRAYTON, TF9 3SR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Lee Gilbert against the decision of Shropshire Council.
  - The application Ref 20/05367/REM, dated 22 December 2020, sought approval of details pursuant to condition No 1 of planning permission Ref 19/00544/OUT, granted on 14 February 2020.
  - The application was refused by notice dated 17 March 2021.
  - The development proposed is the erection of an agricultural workers dwelling to include means of access.
  - The details for which approval is sought are appearance, landscaping, layout and scale.
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### **Decision**

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale, submitted in pursuance of condition No. 1 attached to planning permission Ref 19/00544/OUT, granted on 14 February 2020, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
    - LG/2020/FH/2a – block plan
    - LG/2020/FH/3a – plans and elevations
    - LG/2020/FH/LANDa – landscape plan
  - 2) Prior to the above ground works commencing, samples and/or details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
  - 3) Prior to the first occupation of the dwelling hereby permitted, details of the boundary treatments for the domestic garden area shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the use commences and shall thereafter be maintained.

## **Applications for Costs**

2. At the hearing, applications for costs were made by Mr Gilbert against Shropshire Council, and by Shropshire Council against Mr Gilbert. These applications are the subject of a separate Decision.

## **Procedural Matters**

3. Since the Council made its decision, a revised version of the National Planning Policy Framework (the Framework) has been issued. Those parts of the Framework which are particularly relevant to this appeal remain substantially unaltered, and at the hearing, both parties agreed that changes to the Framework do not materially affect either case. I have determined the appeal on the basis of the revised Framework.

## **Main Issue**

4. Outline planning permission for a permanent dwelling at Little Acorns was granted in February 2020 (ref 19/00544/OUT). All matters were reserved for future determination, other than means of access. The application which is the subject of this appeal includes details pertaining to all the outstanding reserved matters. The Council has raised no objection to the proposed layout, external appearance and landscaping details, but refused the application on the basis of its scale.
5. The main issue, therefore, is whether the proposed dwelling is of an appropriate scale, having regard to i) the needs of the farm business, and ii) the ability of the enterprise to fund the construction of the dwelling.

## **Reasons**

### *Scale in relation to the needs of the farm business*

6. The farm business at Little Acorns was established by the appellant in 2017 and is focused primarily on the rearing of young pigs. The farm also has a small herd of sheep. The appellant and his family currently live in a temporary dwelling on the holding, planning consent for which was granted in 2017.
7. Policy MD7a of the Site Allocations and Management of Development Plan 2015 (SAMDev) is concerned with managing housing development in the countryside. The Policy is primarily concerned with dwelling type rather than size, although the requirement in part 2b that the cost of a primary rural workers dwelling be funded by the business is clearly relevant to any assessment of scale. Further guidance is provided in the explanatory text to Policy MD7a, which explains in paragraph 3.59 that the scale and type of a proposed primary dwelling should be closely related to the evidenced needs of the business.
8. The Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) proposes a maximum 100m<sup>2</sup> gross internal floorspace as a starting point for rural occupational dwellings. The Council explained at the hearing that the 100m<sup>2</sup> figure applies to both primary and additional workers dwellings, with areas needed for the business, such as utility and office areas, being added on. For primary dwellings, 150m<sup>2</sup> gross internal floorspace is generally considered by the Council to be acceptable.

9. The proposed dwelling would have a gross internal floorspace of 208m<sup>2</sup>, which includes space for a utility/decontamination area and an office. The provision of space to change out of dirty clothes and shower within the house is necessary to meet the needs of the business, including biosecurity measures. The proposed office space would have an external door so that visitors could access it directly without needing to go through the house. Locating the office here rather than within the farm buildings would enable indoor meetings with visitors to take place without the need to decontaminate. I am therefore satisfied that the office area is also reasonable and necessary in relation to the evidenced needs of the business.
10. When the areas proposed for utility/decontamination and the office are excluded, the proposed gross internal floorspace would be 178m<sup>2</sup>, so would be considerably larger than the SPD figure. However, there is recognition in both paragraph 3.59 of the SAMDev and paragraph 3.7 of the SPD that a larger house may be appropriate in the case of a primary dwelling, and that this would be considered on a case-by-case basis. Furthermore, paragraph 3.59 makes clear that there is no firm restriction of the size of the dwelling, although it must be demonstrated that the cost can be met by the business.
11. The existing temporary dwelling has three bedrooms and a floorspace of around 126m<sup>2</sup>. The proposed house would be larger, but for a family of five it is not unreasonable to have a four bedroom house, and I note that another family member stays on a regular basis to provide additional help with the children. I acknowledge that the proposed room sizes are fairly generous, and that four bedrooms could be provided within a smaller footprint, but no objection has been raised to the visual impact of the proposed house, which would be set away from the road. Screening would be provided by hedges and by an additional area of recently planted trees, once mature, and I agree that the proposed house would not cause undue harm to the character of the area.
12. The proposed garage would incorporate space for domestic vehicles, a plant room to house a ground source heat pump and an additional toilet to avoid going into the house. Although it would be a fairly large building it would provide facilities which relate to the needs of the business and family, and its siting close to the house would help to limit its visual impact.
13. Paragraph 3.59 of the SAMDev says that the scale of the dwelling should be proportionate to the scale of the business. The appellant has recently purchased additional land adjoining the farm, and at the hearing expressed his intention to expand the pig business. Even including the additional land, at around 10.7 hectares, the total holding is small in terms of land area. However, there is nothing in either Policy MD7a or the SPD to suggest that the scale of a house should relate to the area of a farm. Rather, the test to be applied is whether the business can fund the cost of the dwelling. In this case, income generation for the business comes primarily from pig rearing which takes place within buildings, so the size of the overall holding is not the most important factor in determining its profitability.
14. The outline planning permission is subject to a legal obligation which, in accordance with part 2b) of Policy MD7a, limits the occupancy of the dwelling to a person (and/or their dependents) who is employed in the locality in agriculture. Should the need for an agricultural worker cease and it was agreed that the limitation on occupancy could be removed, then the planning

obligation makes provision for an Affordable Housing Contribution to be paid. I agree that securing such a contribution does not condone an overly large dwelling, but the proposed house and garage would not be excessive in scale, having regard to the needs of the business. Furthermore, the difference in approach to securing affordable housing provision between primary and additional dwellings further indicates the Council's recognition that larger primary workers dwellings are likely to be acceptable.

15. The proposed dwelling would be larger than the SPD figure, but there is nothing in either the Framework or the wording of either Policy MD7a or Policy CS5 of the Shropshire Core Strategy 2011 (CS) which explicitly restricts the size of an agricultural workers dwelling. Overall, I am satisfied that the scale of the proposed dwelling and associated garage would be acceptable, having regard to the evidenced needs and scale of the business.

*The ability of the enterprise to fund the construction of the dwelling.*

16. A detailed breakdown of the estimated cost of the proposed dwelling has been provided by the appellant. Whilst this is now almost two years old and costs will have inevitably risen since, it provides a useful starting point. The ability of the business to fund the cost of the dwelling has been assessed using a methodology developed for this purpose by the Ministry for Agriculture, Fisheries and Food (MAFF). This methodology was provided as part of advice to local planning authorities in 1992, but both parties agree that it continues to provide a useful means of assessing the viability of farm businesses for this purpose, and I have no reason to disagree.
17. The application of the MAFF methodology is based on the costings provided in the profit and loss account for L G Farms Ltd. Whilst this shows that the farm business can sustain the cost of the dwelling and remain viable, the robustness of that finding depends on the accuracy of the financial information which underpins it.
18. For commercial reasons, the farm has been set up using two limited companies. Other than the site of the proposed house, which is owned by the appellant on a personal basis, the farm area is owned by L Gilbert Holdings Ltd. The land and buildings are let to L G Farms Ltd, which runs the farm business.
19. Profit and loss information for L G Farms Ltd has been provided for the period October 2019 - September 2021, and shows the business to have been profitable in each year. Profits dipped by a modest amount in 2020 compared to the 2019 figure, but recovered in 2021. A financial statement has been provided for L Gilbert Holdings for the year ended 30 September 2020, which shows the total equity of the holding company to be just under £1.5m. Comparable information for the year ending September 2021 was not available at the time of the hearing, but the appellant's accountant confirmed that the holding company remains profitable. The financial information shows that both companies are profitable, and at the hearing the appellant was able to explain why some of the costs in the accounts appeared to be unexpectedly low.
20. All of the operating and maintenance costs are covered by the trading company, L G Farms Ltd, including the costs of repairs and maintenance of the buildings. Owing to the fairly recent construction of the buildings on site, these costs have, to date, been low. The costs of maintaining grassland and hedge cutting fall within the direct/agricultural contractors costs within the accounts,

which appear reasonable. The business has several small vehicles including a quad bike and small tractor, but these are not used extensively, so running costs are low. Any large vehicles are owned by the agricultural contractors, with fuel/running costs also included within those costs. The appellant explained at the hearing that provision is made in the accounts to cover future costs of repairs to the machinery, through a depreciation charge, which is shown as a loss.

21. As part of the contract with pig producer Stockcroft, feed for the pigs is provided, along with cleaning materials and veterinary services. L G Farms provide the straw, water and electricity, but initiatives such as the use of harvested rainwater and a 'muck swap' arrangement with another local farmer suggest that the appellant is finding ways to limit some of these costs.
22. I saw at the site visit that, whilst the pig rearing operation is an intensive one, the buildings are fairly low-tech, and do not require significant amounts of energy for heating, lighting or mechanical ventilation. Mucking out is done manually using a fork. Resultant energy costs are therefore not as high as might otherwise be the case.
23. The effect on the balance sheet of other initiatives at the farm, such as a brewing process which may provide additional feed for the pigs, is unclear. However, the appellant has confirmed that pig feed is provided as part of the contract with Stockcroft, and I have no reason to doubt that. It seems unlikely that the provision of additional home-grown pig food would result in significantly increased costs to the business.
24. The day to day running costs associated with the business are covered by L G Farms Ltd, and it is the performance of that company which is most important in the assessment of whether the business can fund the cost of the dwelling. Whilst there may be some gaps in the financial information and future costs, such as for building repairs, are likely to increase, the trading company accounts show a reasonable surplus which would provide scope for the business to absorb additional costs.
25. L G Holdings Ltd covers some of the costs associated with the business, such as building insurance and professional fees, and also receives rental income from the farm. The holding company does, therefore, form part of the overall financial picture, but it 'holds' rather than 'trades', and so its role is more limited. According to the appellant's accountant, as at December 2020, there was no debt associated with the farm and the holding company was profitable. I have been provided with no evidence to suggest that the financial situation of the holding company would limit or prevent the business from funding the cost of the dwelling.
26. There is nothing to suggest that the pig rearing business will not remain viable in the future. The farm has a rolling contract with a national pig producer, and the evidence provided suggests that Little Acorns farm is run to a high standard and is a valued contractor. This is reflected in the income level that the farm is able to achieve through the contract, which includes performance related bonus payments.
27. Overall, I am satisfied that, on the basis of the information provided both in writing and at the hearing, the agricultural business on the site can sustain the costs of the dwelling whilst remaining viable. The proposal therefore meets the

requirements of SAMDev Policy MD7a and condition 4 of the outline planning permission.

28. I conclude that the proposed dwelling is acceptable in scale, having regard to the needs of the farm business, and the ability of the enterprise to fund the construction of the dwelling. I have found no conflict with Policy CS5 of the Shropshire Core Strategy 2011, which allows for dwellings to house agricultural workers where a need and benefit is demonstrated. The proposal is also consistent with the requirements for agricultural workers dwellings contained in SAMDev Policy MD7a, and with the provisions of paragraph 80 of the Framework.

### **Other Matters**

29. The appeal proposal also covers matters of landscape, layout and external appearance. I am satisfied that the proposal is acceptable in relation to these matters, subject to the conditions set out below.

### **Conditions**

30. I have imposed a plans condition to provide certainty for all parties.
31. The Council has suggested a condition requiring samples of external materials to be used in the proposed house, and I agree that this is necessary in the interests of safeguarding the character and appearance of the area. A condition requiring details of boundary treatments to be approved and implemented prior to first occupation is also reasonable, so as to delineate the domestic garden area from the surrounding agricultural land. I have imposed the suggested conditions, with minor wording changes for precision.
32. The third condition suggested by the Council requires the laying out and hard surfacing of areas shown on the approved plans for parking, loading, unloading and turning of vehicles. However, the plans submitted as part of the reserved matters application do not provide that level of detail, so the proposed condition does not meet the test of precision. Furthermore, condition 5 of the outline permission requires similar information, so the suggested condition is unnecessary. I have therefore not imposed it.
33. At the hearing, the Council asked me to consider whether, if I were to allow the appeal, an agricultural occupancy condition could be added to the approval of reserved matters. The Planning Practice Guide is clear that the only conditions which can be imposed when the reserved matters are approved are those which relate directly to those reserved matters. The restriction of occupancy relates to the principle of the development, so such a condition could only be imposed when the outline planning permission is granted (paragraph: 025 Reference ID: 21a-025-20140306). In any case, such a condition would be unnecessary, as occupancy of the proposed dwelling at Little Acorns is already restricted through the planning obligation attached to the outline permission.

### **Conclusion**

34. For the reasons set out, the appeal is allowed subject to the above conditions.

*R Morgan*

INSPECTOR