



Appeal Decision

Hearing held on 15 September 2022

Site visit made on 15 September 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/L3245/W/22/3293953

Keppel Gate Farm, Grug Hill, Elbridge, Ruyton-XI-Towns SY4 1JL

- 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 James Corbett against the decision of Shropshire Council.
 - The application Ref 21/02595/FUL, dated 20 May 2021, was refused by notice dated 24 September 2021.
 - The development proposed is erection of a farm managers dwelling with farm office, detached garage and installation of package treatment plant.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a farm managers dwelling with farm office, detached garage and installation of package treatment plant at Keppel Gate Farm, Grug Hill, Elbridge, Ruyton-XI-Towns, SY4 1JL in accordance with the terms of the application 21/02595/FUL dated 20 May 2021, subject to the conditions on the attached schedule.

Preliminary Matters

2. The Statement of Common Grounds (SOCG) confirms that the description of the development is as described on the appellant's appeal form. I have used this description in the heading above and determined the appeal accordingly.
3. The Council is seeking a section 106 agreement to secure a contribution towards affordable housing if at some future date the proposed dwelling is no longer required for farming purposes. At the Hearing the appellant raised concerns about the need for an agreement. I have therefore addressed the need for a section 106 agreement as a main issue.

Main Issues

4. The main issues are:
 - whether there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside.
 - If there is, whether a section 106 agreement would be needed to secure an affordable housing contribution in the event that the dwelling is no longer occupied in connection with agriculture.

Reasons

Site and development

5. The holding at Keppel Gate Farm comprises 71 Ha (175 acres) of owned farmland and 18.2 Ha (45 acres) of rented land together with approximately 1870 square metres of farm buildings.
6. The farm is accessed via a track which rises steeply from Grug Hill, a rural road in an area of sparsely developed open countryside. The proposed dwelling would be situated on a paddock adjacent to the range of farm buildings associated with the Keppel Gate Farm holding.
7. The owned land associated with Keppel Gate Farm was formerly part of Shelvock Hall Farm holding and owned by the appellant's parents. The farmland was transferred to the appellant and Mr D Corbett, the appellant's father, in 2019.
8. Shelvock Hall is located approximately 600 metres to the north-east of Keppel Gate Farm buildings. Shelvock Hall includes a farmhouse and a range of outbuildings some of which are grade II and grade II* listed structures. At the Hearing the appellant confirmed that following the transfer of the land to the Keppel Gate Farm holding, approximately 12 to 16ha (30 to 40 acres) of land remains associated with Shelvock Hall and this land is currently rented out for grazing cattle.
9. Planning permission was granted in 2013 for a leisure development at Shelvock Hall including holiday accommodation and function venue. This development has commenced and remains extant, although the approved scheme has not yet been fully implemented. Shelvock Hall farmhouse is occupied by the appellant's parents. The SOCG sets out that Mr and Mrs Corbet senior are retired.
10. The first agricultural building on Keppel Gate Farm was erected in 2017, when the land was still part of Shelvock Hall Farm holding. Subsequently planning and prior approval permissions have been granted for additional livestock and storage buildings. The evidence is that all the approved farm buildings have been constructed, are part of Keppel Gate Farm holding and the buildings are in the sole ownership of the appellant.
11. In 2017 planning permission was refused for the erection of an agricultural workers dwelling associated with the Shelvock Hall farm holding. A further application for an agricultural workers dwelling was refused in 2021 after the formation of Keppel Gate Farm holding. Although worded differently, in both cases the Council concluded that the existing farmhouse at Shelvock Hall was able to meet the essential needs of the farm holding.

Planning policy

12. Policy CS5 of the Shropshire Local Development Framework: adopted Core Strategy March 2011 (CS) sets out that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside. Among other things the policy permits dwellings to house agriculture, forestry, or other essential countryside workers. Applicants will be required to demonstrate the need and benefit of the development.

13. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan adopted December 2015 (SAMDev) strictly controls new market housing outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters, unless it is suitably designed and located and meets an evidenced local housing need, including dwellings to house essential rural workers, if there are no other existing suitable and available affordable dwelling which could meet the need and relevant financial and functional tests are met.
14. Paragraph 80 of the National Planning Policy Framework (the Framework) states planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
15. At the Hearing the parties agreed that the site would be isolated in the terms set out in paragraph 80. Having regard to the proximity of the appeal site to the nearest settlement and its lack of grouping with other dwellings I agree that the site is isolated in the context of paragraph 80 of the Framework.
16. Whilst the CS and SAMDev policies set out a number of additional criteria beyond that required by the Framework, I am satisfied that these criteria form an appropriate basis for establishing whether or not there is an essential need for a rural worker to live permanently on the site. These policies are therefore consistent with the aims of the Framework.
17. The Type and Affordability of Housing Supplementary Planning Document (SPD) September 2012 is intended to provide interpretation of the CS objective of providing for a mix of housing to meet the needs and aspirations of all sections of the community.

Essential need

Functional

18. The requirement for on-site accommodation at Keppel Gate Farm relates to the livestock enterprise. At the Hearing the appellant clarified that calves are brought on to the holding at 2 weeks old, at 14 weeks the calves are weaned off milk and can be put out to grass. The cattle are kept inside during the winter and are sold at about 20 months. The farm secures all its animals from one source to reduce the risk of disease and has approximately 250 contract cattle on the holding through the year.
19. Sheep are brought on to the holding for 7 months, lambed on site and returned with lambs at foot. There are about 350 head of sheep on the holding per year. There are also approximately 35 pedigree sheep retained on the farm and poults and eggs are produced on site. At my site visit I noted that the farm buildings were in full use for feed storage, keeping livestock and storing of farm machinery.
20. The appellant contends that a presence is required on the farm to quickly identify any signs of illness or distress in the livestock. There is also a need to remain on hand for the general feeding and checking of the stock. This can include bottle feeding young animals, quarantining animals, and dealing with stock that requires ongoing care. With regard to the lambs there is a need to be available to assist with delivery and monitor breeding activity. The appellant considers that the lack of a presence on the site 24-hours a day prevents the

- detection of welfare issues at an early stage. Reference is made to high losses of livestock during 2021 when a virus in the cattle was not detected early enough.
21. The appellant uses CCTV but cannot get to the farm quickly enough from where he currently lives 15 miles from the appeal site to deal with any emergencies. In his oral evidence Mr Corbett also set out that the benefits of living on the site include an understanding of the changing local environment and the ability to proactively respond to the farm conditions, providing better welfare for the animals.
 22. The main workers on the Keppel Gate Farm are Miss Tipping the appellant's partner who is identified as working full time on the holding with the necessary expertise in livestock, and the appellant who dedicates 75% of his time to Keppel Gate Farm holding whilst undertaking other contracting work for 25 % of his time. The remaining work is covered by casual workers. The typical daily routine for livestock¹ indicates an extended working day and the need for night-time monitoring.
 23. At the Hearing the Council expressed the view that as the calves are brought on to the farm at 2 weeks rather than being born on the holding, the calves will be in a routine. Feeding would be in a regular pattern and if adequate ventilation and dry bedding is provided the feeding regime could be carried out during the normal farming day. Therefore, there would be no functional need to be available 24/7 for the welfare of the calves. In relation to the lambs the Council considers that any concerns with their welfare can be dealt with during normal hours, few sheep are likely to require help with lambing and temporary accommodation could be provided on these limited occasions.
 24. However, the Council's Animal Welfare Officer expressed the view that some calves need more regular feeding or medical care. It would be neglectful for the farmer not to be on site to deal with livestock that needs care. This is consistent with the appellant's view that young calves and lambs have a heightened need for care and supervision. It is also consistent with the Reading Statement² which the Council commissioned to review the details of the original proposal for a farm dwelling at the appeal site. This highlights the responsibility of farmers towards livestock under the Animal Welfare Act 2006.
 25. There does seem to be some discrepancies in the description of the farm operation in the evidence. From Mr Corbett's description at the Hearing, it appears that calves are not born on the holding as suggested in the appellant's supporting statements but brought on to site at 2 weeks old. Notwithstanding this, I am persuaded by the evidence that Mr Corbett is raising calves on the holding, lambing sheep, and raising lambs. Further, the SOCG accepts that there is a functional need to have 2.9 people on the farm living there.
 26. I acknowledge that as an isolated site, on site security could be a challenge despite the use of CCTV. The Council's officer report acknowledges that the siting of the dwelling would provide surveillance of the farm access thereby improving security. I accept that natural surveillance provided by an on-site farm worker is the most effective security and this is a matter to which I give

¹ Appendix 3 of the Farm Business Appraisal report May 2021

² Annex 2 of the Council's statement Reading Agricultural Consultants 13 September 2017

some weight, although security does not of itself demonstrate a functional need for a dwelling.

27. The appellant keeps horses which require medication outside normal working hours. However, there is little before me to indicate that the horses are part of the farming business and the need to provide care for the horses does not contribute to the functional needs of the holding.
28. Even so, it appears to me that for the livestock business to function adequately there is a clear need for someone to be on hand to provide 24-hours a day care for the livestock on the Keppel Gate Farm holding.

Financial

29. In terms of financial viability, the infrastructure evident on the holding, including the farm buildings, demonstrates that there has been significant investment into Mr Corbett's business since 2017, and this includes the cattle rearing component in the form of the sheds being suitable for livestock.
30. I recognise that the Council has some concerns about the details in the accounts. I also note the appeal decision³ where it was concluded that it is necessary to consider whether the special circumstances which justify the dwelling are likely to be sustained in the long term. Nevertheless, the accounts show that over a sustained period the appellant's business has been profitable. Further, the Reading report acknowledged that in 2017 the livestock enterprise was run by the appellant and that the business was profitable, sustainable, and likely to remain so in the future.
31. I acknowledge that since the Reading statement was produced, there has been changes to the way the business is structured. Even so, it appears to me to be perfectly legitimate for a business to plan for changing circumstances, in this case the retirement of the appellant's parents and the implementation of the diversification scheme at Shelvock Hall. The later accounts show that the establishment of Keppel Gate Farm has not affected the profitability of the appellant's business.
32. Overall, I find the financial information and opinions provided on the appellant's behalf to be credible and to give the necessary degree of assurance that the enterprise will remain viable for the foreseeable future. It also clarifies that the proposed dwelling could be funded through the business.

Other available accommodation

33. Policy MD7a of the SAMDev states that dwellings to house essential rural workers will be permitted if there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural business. The SPD clarifies that permission will not normally be granted if other suitable buildings or dwellings on the site have been sold off in the last three years.
34. The appellant and Ms Tipping currently live with the appellant's parents-in-law approximately 15 miles away from the farm holding. The Council considers that the travel to work time of 45 minutes set out in the appellant's submissions is

³ Appendix 5 of the Council's statement of case

- excessive and estimates the journey time as around 28 minutes. In either case, neither party suggests that the current living arrangements would provide for the essential needs of a farm worker at Keppel Gate Farm.
35. The appeal proposal would provide a new dwelling from which to manage the Keppel Gate Farm business. Because of the association between Keppel Gate Farm and Shelvock Hall the Council sets out in its reason for refusal that 'the existing Shelvock Hall farmhouse is able to meet the essential needs of the Keppel Gate Farm'. Further, the Council's statement of case draws attention to the potential for outbuildings at Shelvock Hall, or other available accommodation closer to Keppel Gate Farm than the appellant's current living arrangements, to meet the appellant's accommodation needs.
 36. Shelvock Hall is set back from the Grug Hill road frontage by about 200 metres. Keppel Gate Farm is set back and elevated above Grug Hill on the opposite side of the road. The distance between the entrances to the two sites along Grug Hill is about 160 metres. Given the distance between the two sites, the location of the farm buildings, the topography of the land and the intervening trees and hedged boundaries, a dwelling at Shelvock Hall would not provide accommodation close enough to the farm buildings to oversee the livestock at Keppel Gate Farm. In this respect, I note that it is agreed as part of the SOCG that Shelvock Hall is not within sight or sound of the livestock buildings.
 37. I acknowledge the evidence that there remains a family connection between Shelvock Hall and Keppel Gate Farm. I also accept that it is marginally more than three years since Keppel Gate Farm was established. Nevertheless, neither Shelvock Hall farmhouse nor the outbuildings associated with it, would be suitably located to provide for the essential needs of the Keppel Gate Farm holding.
 38. For similar reasons, dwellings that may be available within adjacent settlements would not be close enough to be suitable accommodation.
 39. The Council does not object to the proposal in terms of the size, scale and design of the dwelling or its impact on the character and appearance of the surrounding countryside. Following my site visit I see no reason to disagree.
 40. Overall, for the reasons I have set out, I conclude that there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside. The proposal complies with Policies CS5, CS6, CS11 of the CS and Policy MD7a of the SAMDev Plan. It would also comply with the requirements of the SPD.

Section 106 agreement

41. Section 11 of the Council Statement of Case indicates that it is a requirement of adopted policy that the appellant enter into a section 106 agreement to ensure that the future occupation of the dwelling is restricted to the agricultural business and that should the dwelling no longer be required for such a purpose a financial contribution to affordable housing should be made.
42. The appellant confirms a willingness to enter into a legal agreement with regard to the occupation of the dwelling in connection with agriculture. Even so, I see no reason why the occupation of the proposed dwelling cannot be limited to a person solely or mainly employed in agriculture by means of the condition agreed as part of the SOCG. The use of a condition in preference to a

section 106 agreement is consistent with the Planning Practice Guidance (PPG)⁴.

43. The Council has confirmed that in terms of Policy MD7a the proposal would be a primary dwelling. The policy states that such dwellings will be the subject of occupancy conditions. The policy also states that if subsequently the dwelling is no longer required as an essential rural worker's dwelling a financial contribution to the provision of affordable housing will be required.
44. The Council's SPD states that occupational dwellings are treated as part of the pool of affordable housing to meet local needs and the starting position is that new occupational dwellings will also be secured from the start by a section 106 agreement for affordable housing.
45. However, I must consider whether in accordance with the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations and the Framework the proposal for a section 106 obligation is necessary to make the development acceptable in planning terms.
46. As highlighted in Policy MD7a should the proposed dwelling at some subsequent date be no longer required in connection with agriculture a planning application would be required to vary or remove the occupancy condition. In such circumstances, in accordance with Policy MD7a, an appropriate contribution towards affordable housing would be sought. Therefore, in this case, based on the evidence before me, it is not necessary for the appellant to enter into an agreement to secure a contribution towards affordable housing at this stage.
47. Therefore, I conclude that a section 106 agreement would not be needed to secure an affordable housing contribution in the event that the dwelling is no longer occupied in connection with agriculture. The development, in the absence of an agreement, would not conflict with Policies CS5 or CS11 of the CS or Policy MD7a of the SAMDev. Nor would it conflict with the objectives of the SPD.

Other Matters

48. Due to the siting of the Keppel Gate Farm buildings, there would be no intervisibility between Shelvock Hall and the proposed dwelling. In respect of the statutory test set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have had special regard to the desirability of preserving or enhancing the setting of the designated heritage assets at Shelvock Hall, and I am content that the proposal would preserve those interests.

Conditions

49. Conditions were proposed and agreed between the parties in the SOCG, including pre-commencement conditions. These were discussed at the Hearing. Having had regard to the discussions and the requirements of the Framework and the PPG, I have imposed those conditions I consider meet the six tests, subject to amendments to ensure precision and brevity without changing their overall intent.

⁴ Paragraph: 011 Reference ID: 21a-011-20140306

50. I have imposed the standard time limit condition, and in the interests of certainty, I have also imposed a condition concerning the approved plans. Details of the materials of the development are needed to ensure that the development has a satisfactory appearance. A condition requiring surface and foul water drainage details, is necessary in the interests of the environment.
51. An occupancy condition is necessary to make the construction of a dwelling in the countryside acceptable. Conditions removing permitted development rights and ensuring the garage is not used for living accommodation are necessary to ensure that the development remains commensurate in size with policy requirements related to rural workers dwellings and affordable housing need within Shropshire Council area.

Conclusion

52. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed subject to conditions.

Diane Cragg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the following approved plans: Location Plan Drawing No 433-143p dated May 2021; Site Plan Drawing No 433-143p dated May 2021; New House and Garage Plans Drawing No 433-143p dated May 2021.
3. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.
4. No above-ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
5. The dwelling hereby permitted shall only be occupied by a person solely or mainly employed, or last employed in the locality in agriculture as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry, a dependent of such a person residing with him or her, or a widow or widower of such a person.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted under Classes A, AA, B, C, or E of Part 1 Schedule 2 of the order shall be erected, constructed, or carried out.

7. The detached garage hereby permitted shall not be used for living accommodation and shall only be used for purposes ancillary to the use of the residential dwelling hereby approved.

Appearances:

Appellant:

Frances Kirkham	Heal Planning
Kirstie Edwards	Heal Planning
James Corbett	Appellant
Robin Hooper	Heal Planning

Council:

Mark Perry	Shropshire Council
Philip Mullineux	Shropshire Council
Jenn Lister	Shropshire Council