



Appeal Decision

Hearing Held on 2 November 2022

Site visit made on 3 November 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal Ref: APP/L3245/W/22/3301728

Poultry Buildings, Muckleton Road, Edgebolton, Shawbury SY4 4EP

- 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 T Heal (Heal Eggs Ltd) against the decision of Shropshire Council.
 - The application Ref 20/03923/FUL, dated 24 September 2020, was refused by notice dated 1 February 2022.
 - The development proposed is temporary accommodation for agricultural workers.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a single caravan for use as a temporary agricultural workers' dwelling at Poultry Buildings, Muckleton Road, Edgebolton, Shawbury SY4 4EP in accordance with the terms of the application, Ref 20/03923/FUL, dated 24 September 2020, subject to the following conditions:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 3 years from the date of this permission in accordance with a scheme of work first submitted to and approved in writing by the Local Planning Authority.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan Dwg No. SA37699-PL01; Block Plan Dwg No. SA37699-PL02;
Static Caravan Floor Plans & Elevations Dwg No. SA37699-PL03

Application for costs

2. At the Hearing an application for costs was made by Mr T Heal against Shropshire Council. That application is the subject of a separate decision.

Preliminary Matters

3. The appellant's description of the proposal is for temporary accommodation for agricultural workers, whereas the decision notice describes the proposal as the siting of a mobile home for use as a temporary agricultural workers dwelling
4. As the proposal is for accommodation to be provided within a mobile home, it is the siting of the mobile home which is the development itself. I have therefore utilised the Council's description in my decision.
5. At my site visit, I saw that the mobile home on site was orientated perpendicular to that shown on the submitted plans. In light of this discrepancy, I have determined the appeal based on the plans submitted as part of the application rather than as retrospectively.

Main Issue

6. Whether or not there is an essential functional need for an agricultural worker to live on the site.

Reasons

7. The appeal site is located adjacent to a free-range egg poultry unit (the poultry unit) that accommodates approximately 32,000 laying birds. The site is within the open countryside to the east of Shawbury and is accessed via a farm track off the southern side of Muckleton Road. The existing mobile home has been sited to the west of the unit within a fenced-off area adjacent to the access drive. The appellant advises that there are currently two full-time site supervisors employed and living in the mobile home. There is common ground between the main parties that the poultry unit can financially support the proposed temporary agricultural workers' dwelling and I see no reason to disagree.
8. At the hearing, the appellant set out in some detail the daily routine of the two site supervisors currently living in the mobile home. I noted that the core hours for the site supervisors are 0730h to 1530h, with further visits to the poultry unit at 1830h and 2100h to check for any blockages to feeders, and to pick up floor eggs. At 2100h, site supervisors are also required to walk around the outside of the poultry unit, ushering in any lingering birds and ensuring that all the pop holes are securely shut, before finishing for the day.
9. The appellant advises that, based on figures within the John Nix Farm Management Pocketbook 49th edition 2019, a 32,000 bird free range unit generates a requirement for 7 full-time workers¹. The Council does not dispute that it has been clearly demonstrated that two suitably skilled and competent full-time workers are required to operate the poultry unit. The Council does not accept, however, that the operational needs of the poultry unit result in an essential functional need for a dwelling on the site.
10. In order to determine whether the need is essential, it is necessary to establish whether there is a physical need for someone to be on-site at most times. The Planning Practice Guidance² (the Guidance) indicates that in considering paragraph 80a of the National Planning Policy Framework (the Framework), it may be relevant to consider the necessity for a rural worker to live at, or in

¹ Standard Man Day Calculation (not including an allowance for general maintenance)

² PPG Paragraph 010 Reference ID 67-010-20190722

close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise. It refers to examples where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products.

11. The appellant advises that free range hens quickly panic if something disturbs them, leading to the birds huddling together. This huddling increases the risk that birds will suffocate. These smothering incidents can be triggered for several reasons, including if the temperature in the poultry unit is either too hot or too cold. The appellant advises that bird losses can occur in as little as 5 minutes after the birds initially huddle. I note that the loss of mature birds would depress egg output for the whole of the remaining production cycle, potentially resulting in a substantial financial effect.
12. The poultry unit includes an alarm system that covers potential failures in the unit's automated ventilation, lighting, power, feed and water systems. The Council accepts that a failure of the automated systems represents a risk to the productivity of the poultry unit, and to the welfare of the birds, if not responded to quickly. It is the site supervisors' responsibility to react first when alarms are activated. The on-site alarm includes a siren that would be audible to any on-site workers. The alarm system is also linked to the mobile phones of 4 other Heal Eggs Ltd employees who live off-site. These off-site employees are each 'on-call' for one week every 4 weeks, during which they are responsible for responding to alarms at all of the Heal Eggs Ltd locations. These on-call employees are accommodated at various dwellings owned by Heal Eggs Ltd within the surrounding area.
13. The appellant has submitted alarm logs that show alarms triggered numerous times each month at the site, including outside of the site supervisors' core working hours. The alarm logs also show frequent alarms at Heal Eggs Ltd's other poultry sites. In a best-case scenario, travel time from their homes to the site (by car) for the on-call employees would be approximately 5 minutes. Taking into account the need to maintain thorough biosecurity measures for off-site arrivals, and the potential that the alarm is received whilst the employee is at another poultry unit, the response time for the on-call employee could be significantly longer than 5 minutes.
14. The Council asserts that a response time to emergency call outs of 10 to 15 minutes would be desirable for animal welfare, whilst a 20 minute response time for a mechanical failure would not be unreasonable. Establishing agricultural need is, however, an area of specific expertise. I do not find the Council's evidence, with regards to the acceptability of these response times, sufficiently substantive to override that provided by the appellant. Whilst the number of employees on-call at any one time could be increased, having on-site employees significantly increases the chance that issues resulting in alarms will be addressed swiftly, with quick response times that reduce the risk of both bird and productivity losses. Furthermore, minimising the number of visits of off-site workers to the poultry unit reduces the risk that diseases, such as avian influenza, will be spread through the contamination of vehicles, equipment, clothing, and footwear.

15. The appellant has also drawn my attention to a range of scenarios where the automated systems and alarms would not be effective in preventing bird losses. For example, the failure of a single ventilation fan, the presence of predators, or an increase in noise level, such as from aircraft or adverse weather events, would not trigger alarms but may cause the birds to panic and huddle. Occupants of an on-site mobile home would be in close enough proximity to the poultry unit to be able to detect most disturbances and respond to an emergency almost immediately.
16. The risk of the birds being panicked by aircraft noise is of particular concern at this site given its proximity to RAF Shawbury, a helicopter pilot training base where night flying is to be anticipated. I note that the on-site staff are required to immediately enter the poultry unit and switch off the lights upon hearing aircraft noise. The appellant advises that this process has been successful in preventing the bird losses previously experienced due to such noise disturbance. The Council contends that any helicopter will likely have flown passed before an on-site worker is able to respond. Whilst that may be the case, the worker would be responding to any panic amongst the birds caused by the aircraft noise rather than the noise itself.
17. The isolated nature of the appeal site means that the opportunities for natural surveillance of the site are limited. This has implications for both security and poultry welfare. Whilst I have had regard to the theft of an excavator at the nearby Coolmoor site, I do not find the limited evidence of security concerns would justify the need for a temporary workers' dwelling on the site. Nevertheless, the additional surveillance provided by the temporary workers' dwelling would increase site security and does, therefore, weigh in favour of the proposal.
18. Existing off-site Heal Eggs Ltd employees are accommodated too far from the site to effectively detect and swiftly respond to many of the above potential issues at the poultry unit. The Council asserts that the required farm workers could be housed in Shawbury. The appellant's planning statement, however, included details of a search for rental properties within a 3-mile radius of the site but did not identify any suitable properties. The appellant's appeal statement does, however, indicate that some affordable properties may be available in Shawbury. Whilst travel times from dwellings in Shawbury to the poultry unit could potentially be within 5 minutes, occupants of such dwellings would not be able to effectively monitor the poultry unit for issues where close proximity is essential to their identification.
19. My attention has been drawn to two recent appeal decisions at Coolmoor Farm³ and at The Hazles Farm⁴, both for temporary agricultural workers' dwellings at nearby Heal Eggs Ltd sites. Whilst these appeals related to larger poultry units (64,000 birds), there are similarities in that all the appeals relate to large modern poultry units with alarm systems that cover potential failures in the units' automated ventilation, lighting, power, feed and water systems. As such, the issues relating to bird welfare and productivity in the recent appeals were similar to this appeal.
20. In the recent appeal decisions, despite the highly automated functioning of the modern poultry units, the Inspector found that it was necessary for a dwelling

³ APP/L3245/W/20/3247409

⁴ APP/L3245/W/20/3247412

to be within sight and sound of the egg laying units in order to deal with potential bird welfare issues. As such, these appeals were allowed due to the essential need for the temporary agricultural workers' dwellings having been demonstrated.

21. I find that the circumstances of the recent appeals are substantially comparable to those for the current proposals. In particular, there are material similarities in terms of the need for near constant and close monitoring of stock, the need for swift response times to issues, the requirement for additional labour, and the lack of suitable alternative available accommodation. I therefore give the recent appeals significant weight in favour of the proposal. The Council's assertion that the automated functioning of modern poultry units negates the essential need for an available nearby worker's dwelling is inconsistent with the findings of the recent appeal decisions.
22. I also note that, in 2013, the Council granted a temporary permission⁵ for the siting of a static caravan adjacent to the Muckleton Road poultry unit in order to provide a temporary dwelling for essential agricultural workers. Whilst I have not been provided with the full details of that previous permission, I have considered the relevant officer report and decision notice submitted by the appellant at the hearing. The officer report for the 2013 permission states that there was sufficient justification for a full-time worker to be residing at, or near, the site. A temporary permission was, therefore, recommended and granted.
23. I acknowledge that Heal Eggs Ltd's wider operations have expanded since the earlier 2013 temporary permission was granted. I also recognise that there have been changes in relevant planning policies and available technology. Nevertheless, there is no substantive evidence before me to suggest that the Council's previously stated reasons for finding an essential need for a worker to live at or nearby to the site have been addressed. As such, I give the Council's decision to grant a previous temporary permission at the poultry unit some limited weight in favour of the proposal.
24. Overall, I find the unpredictable timing of the potential issues that can negatively affect bird welfare, combined with the difficulty in remotely detecting those issues, and the time critical nature of effectively responding to them, necessitates near constant attention of a nearby farm worker. A substantial labour requirement at the site, and across the wider Heal Eggs Ltd operations, has been demonstrated by the appellant with reference to accepted industry standards. I do not find the Council's evidence, regarding whether there is an essential functional need for the site supervisors to live at the appeal site, sufficiently substantive to override that provided by the appellant. There is no substantive evidence before me of suitable alternative available accommodation. The essential need for the proposed temporary workers' dwelling has, therefore, been demonstrated.
25. As such, the proposal accords with Policies CS5 and CS6 of the Shropshire Local Development Framework Core Strategy (2011) and Policy MD7a of the Site Allocation and Management of Development (SAMDev) Plan (2015) which, amongst other matters, seek to strictly control new development in the countryside in accordance with national planning policies, supporting new dwellings for rural workers when an essential need has been demonstrated. It

⁵ LPA ref: 12/04974/FUL

would also accord with paragraph 80 of the Framework and the Council's Type and Affordability of Housing Supplementary Planning Document (2012).

Conditions

26. I have considered the conditions suggested by the Council against the advice set out in the Guidance and the discussion at the hearing. As the mobile home is being permitted to support an essential need within the open countryside where residential development would not normally be permitted, a condition restricting occupancy is necessary. A condition specifying the approved plans is necessary as this provides certainty.
27. As the proposal is for accommodation to be provided within a mobile home rather than a permanent building, and given that the appellant states that the development is only intended to provide a temporary dwelling, a condition is necessary to ensure that it is removed after the period applied for. Whilst I acknowledge that the Guidance states that it will rarely be justifiable to grant a second temporary permission, the benefits of the proposal significantly outweigh any conflict with the Guidance in this regard.

Conclusion

28. The proposed development would comply with the development plan when taken as a whole. There are no other considerations which outweigh this finding.
29. Accordingly, for the reasons given above, the appeal is allowed.

S D Castle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Deborah Sharples LLB	Solicitor, Birketts
Mandy Seedhouse MRICS MRTPI CAAV	Senior Planning Consultant, Berrys
Tony Heal	Appellant, Heal Eggs Ltd
Lucy Grinnell LLB	Trainee Solicitor, Birketts

FOR THE LOCAL PLANNING AUTHORITY:

Richard Denison MRTPI	Senior Planning Officer, Shropshire Council
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DOCUMENTS SUBMITTED DURING THE HEARING

H1	E-mail from Deborah Sharples (DS) to Richard Denison (RD) (05 Oct 22)
H2	Letter sent by DS to RD (07 May 21)
H3	Updated Appellant's Statement Appendix 3 – Staff Accommodation List
H4	Egg Units' Accommodation Planning History Summary Table
H5	Officer Report Ref: 12/04974/FUL (Drayton Rd, Shawbury)
H6	Decision Notice Ref: 12/04974/FUL (Drayton Rd, Shawbury)
H7	Officer Report Ref: 19/02332/FUL (The Hazels Farm, Shawbury)
H8	Decision Notice Ref: TWC/2018/0624 (High Ercall Poultry Unit, Telford)
H9	Decision Notice Ref: 07/02425/FUL (Haw Green Farm, Peplow)
H10	Officer Report Ref: 07/02425/FUL (Haw Green Farm, Peplow)
H11	Decision Notice Ref: TWC/2016/0131 (Ellerdine Heath, Telford)
H12	Decision Notice Ref: TWC/2020/0837 (Ellerdine Free Range Unit, Telford)
H13	Appeal Decision Ref: APP/R0660/W/19/3236598 (Daisy Bank Farm)
H14	Decision Notice Ref: TWC/2021/0531 (Osbaston, Telford)
H15	Decision Notice Ref: 21/03070/FUL (Greystones, Butlers Bank)
H16	Updated LPA Statement Appendix 2 – Map of Heal Eggs Poultry Units
H17	Application Planning Statement Ref: TWC/2020/0837 (Ellerdine Poultry Unit)
H18	Application Planning Statement Ref: TWC/2018/0624 (High Ercall)
H19	Costs Application on Behalf of the Appellant
H20	Shropshire Council Costs Rebuttal