



Appeal Decision

Site visit made on 22 October 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/C3430/W/20/3253786

Land forming part of Willow Farm, Hollies Lane, Pattingham WV6 7HJ

- 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 and Mrs Anning against the decision of South Staffordshire Council.
 - The application Ref 19/00462/FUL, dated 24 May 2019, was refused by notice dated 07 February 2020.
 - The development proposed is stationing of a static caravan as a temporary agricultural workers dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme was completed in October 2017. In addition to the static caravan, there is a wooden timber porch attached to the side elevation of the caravan. At the time of my visit, I saw that the location, size and appearance of the caravan and the porch correspond to the submitted details. However, the appeal only relates to the stationing of the caravan, which amounts to a material change of use of land. Therefore, I have determined the appeal on this basis.
3. Mrs Anning is named as the appellant in the appeal form, but the applicants are named in the application form as Mr and Mrs Anning. The agent confirmed that the appeal should proceed in the names of both Mr and Mrs Anning.

Main Issues

4. The main parties have agreed that that the proposal is inappropriate development in the Green Belt, having regard to Policy GB1 of the South Staffordshire Council Core Strategy Development Plan Document Adopted December 2012 (the CS) and paragraphs 145 and 146 of the National Planning Policy Framework (the Framework). I concur with this position given that the openness of the Green Belt is not preserved and the scheme results in encroachment into the countryside, albeit that it does not contribute to urban sprawl.
5. Therefore, the main issues are:
 - i) the effect of the proposal on the character and appearance of the area;

- ii) whether there is an essential need for a rural worker to live permanently at the site; and
- iii) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Reasons

Character and appearance

6. Willow Farm is located in an area of undulating countryside comprising generally large open fields with boundary hedgerows and scattered individual trees and small woodlands. It is a typically rural area with sporadic development including farmsteads and detached dwellings, some of which have been created by the conversion of traditional agricultural buildings.
7. Although the caravan is partially screened by the hedgerow along Hollies Lane, particularly when the hedge is in leaf, it is visible from locations around the highway access and Nurton Croft. While it would be hidden from these views by the permitted agricultural building¹, this has not yet been constructed. Irrespective, the caravan is visible from more distant locations in the surrounding countryside including the right of way from Pattingham Road along the edge of the golf course. From here, the caravan appears isolated and it is not seen as ancillary to a residential dwelling. It is out of keeping with the surrounding rural character and context. Consequently, it is a discordant feature that is not sympathetic to its surroundings.
8. Hedgerow planting and enhancement might provide additional screening benefits from close range, but the existing hedgerow is already well established. Moreover, there are no alternative proposal before me to illustrate how a different form of temporary residential accommodation may result in less harm to the rural character and appearance of the area.
9. Therefore, the scheme harms the rural character and appearance of the countryside. It conflicts with Policies EQ4 and EQ11 of the CS. These require, among other things, that development should be of high-quality design, making a positive contribution, taking account of the local character and distinctiveness of the landscape and its surroundings, and respecting and safeguarding visual amenity. It would also conflict with the policies in the Framework that require development to add to the overall quality of the area, to be visually attractive, to be sympathetic to local character including landscape setting, and to maintain a strong sense of place.

Essential need for a rural worker

Policy considerations

10. Policy EV8 of the CS sets out that proposals for temporary agricultural and occupational workers dwellings will be supported subject to meeting a number of criteria including: evidence of a firm intention and ability to develop the enterprise; a functional need which cannot be fulfilled by an alternative dwelling; and that the enterprise has been planned on a sound financial basis.

¹ Ref 20/00223/AGR

11. Paragraph 79 of the Framework states that the development of isolated homes in the countryside should be avoided except in specific circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work. This is substantially the same as the provisions in Paragraph 55 of the 2012 version of the Framework. In this regard, my attention has been drawn to the case of Embleton², where it was concluded that the test under paragraph 55 only required an assessment of whether there was an essential need for a worker to be at or near the site.
12. Nevertheless, the Planning Practice Guidance (the PPG) sets out that the functional need and the degree to which there is confidence that the enterprise will be viable for the foreseeable future are both factors that may be relevant when considering whether there is an essential need for a rural worker. Moreover, the case law relates to the Framework and not to the development plan which was found sound and adopted subsequent to the publication of the Framework in 2012. Consequently, although the Framework is a material consideration, the starting point for decision making is the development plan.

Essential functional need

13. The appellants farm approximately 97 acres spread across several widely separated parcels of land. They have been farming the 16.5 acres at Willow Farm since approximately 2007, initially on a Farm Business Tenancy and as owner occupiers since approximately 2017 when they purchased the land following the sale of Mrs Anning's family home in Pattingham. The remainder of the holding comprises rented grazing land.
14. The current agricultural business operating at Willow Farm includes a sheep breeding enterprise (the SBE) and a procurement enterprise (the PE). The PE operates from the top pastures, roughly 2 acres, and the SBE utilises the lower pastures, roughly 14 acres.
 - a) Sheep breeding enterprise (the SBE)
15. The SBE has grown from an initial flock of 12 to 270 breeding ewes plus 10 rams. The acreage at Willow Farm is not sufficient to support the entire flock. Consequently, for much of the year, the flock are grazed on the tenanted land away from Willow Farm. The ewes are brought back in batches to the lower pastures from January onwards, where they lamb from February through April before being transported back to the tenanted land. The SBE lambs are finished on the holding at between 3 and 9 months old. Outside of the lambing season, the flock is brought back to Willow Farm for routine husbandry operations including shearing and foot trimming.
16. There is clearly a seasonal need for an agricultural worker to be permanently present on site for the 12 weeks or so that cover the main lambing period. However, the flock is not permanently based at Willow Farm and, even during the lambing season, only a proportion of the flock are present at any one time. Therefore, there simply cannot be an essential functional need for a rural worker to live permanently at Willow Farm to manage the flock.
17. I acknowledge that the appellants intend to increase the size of the SBE flock to 350 ewes. While this would increase labour requirements, the lambing season would still extend over 12 weeks in the spring with a relatively low

² Embleton Parish Council v Northumberland County Council [2013] EWHC 3631

number of ewes lambing outside of this period. Moreover, an even greater proportion of the flock would be away from Willow Farm on the tenanted land. Therefore, an increase in the flock size would not require a permanent agricultural workers dwelling at the site.

b) The procurement enterprise (the PE)

18. The PE has been operating at Willow Farm since approximately 2009, predominantly utilising the top pastures near to the appeal site. Lambs, cull ewes and rams are bought direct from local farmers or from livestock markets to supply fresh meat to the ethnic meat market. This is largely a reactive operation, meeting short notice orders for fresh meat. However, some livestock are bought speculatively, in order to be able to meet anticipated future orders at times of high demand such as religious festivals. Although numbers vary through the year, approximately 200-220 animals pass through Willow Farm each week in several separate loads.
19. Following purchase, the PE livestock are brought back to Willow Farm where they are checked and transferred into holding paddocks with access to food and water until such time as they are graded and sorted and taken to the abattoir. The length of stay on the holding varies from overnight for transport the following day to several days, such as over weekends when the abattoir is closed. Although some stock are held for longer periods of time, the average duration that PE livestock are kept on site is between 2 to 4 days.
20. There is a dispute between the parties as to whether the PE is a lawful agricultural use of the land. Clearly, it is not lairage for the purposes of long-distance haulage and export of livestock. Nevertheless, it is not a short-term lamb finishing unit as it is consistently described as a procurement activity. The PE livestock are purchased to order or bought in advance of expected orders from existing customers. The livestock are held on the land for short periods of time for the purpose of meeting and maintaining procurement contracts. Notwithstanding that some animals may be held for longer periods, this remains in connection with the procurement business.
21. There is no detailed historic evidence relating to the PE, although it has been operating for several years with apparently no previous or current enforcement investigations. Irrespective of whether or not it is a lawful agricultural use, given the large numbers of animals involved and the nature of the activity I am satisfied that it is a rural use. On that basis, it is appropriate for me to consider whether or not it gives rise to a functional need for a rural worker.
22. The PE enterprise involves a lot of paperwork and travelling, often with early starts and late finishes. However, long working days are part and parcel of farming and they do not of themselves demonstrate a functional need for a rural worker to live on site.
23. The livestock markets and transport will be stressful for the animals, most particularly any that might already be in poor health. Mr Anning advised that serious injury and health issues such as fly strike and severe calcium deficiency would be apparent upon arrival at the holding and could therefore be treated promptly. The relatively low number of stock displaying signs of stress are marked for ease of identification, put out with the flock to recover and monitored at intervals during the night.

24. The historically low number of livestock deaths is attributed to the high standard of husbandry including overnight monitoring. However, no detailed information is available in relation to the numbers of stock that arrive injured or ill or that have required treatment immediately or during the following night. Consequently, it is not possible to establish the number of animals that would have suffered or died if they had not been monitored overnight. In any case, given that the late finishes and early starts, it seems reasonably likely that any unsupervised overnight period would be relatively short.
25. While the PE is not a standard agricultural operation, livestock markets, handling and transport are a routine part of livestock farming. Moreover, some of the livestock come direct from farms, thereby avoiding the stress associated with commercial markets. There are apparently no industry guidelines relating to welfare following relatively short domestic journeys from markets or farms. It will be a matter for the individual farmer based on the needs of the stock, but in this case there is not an essential functional need for a worker to be present overnight in connection with non-breeding sheep that are destined for slaughter, in some cases the following morning.

c) Beef finishing enterprise (the BFE)

26. While the business plan indicates the intention to introduce a calf rearing enterprise in year 3, the appellants previously purchased a small number of calves in 2019-2020, including some that required milk-feeding and monitoring for pneumonia due to their young age. Until they were weaned, the calves were kept on the top pastures, with mobile calf hutches for shelter and they were fed 3 to 4 times a day, including overnight. Following weaning, they were moved to rented pastures for finishing at roughly 24 months.
27. There would be a need for a worker to be present to care for the calves during their early weeks, but the overnight husbandry need drops away as the calves age. There are currently no young calves at Willow Farm and there is no detailed plan for a future commercial BFE, including in terms of numbers of livestock or requirements and associated investment in additional land, livestock buildings and equipment such as automated feeders. Moreover, given that the top pastures at Willow Farm are used for the PE and the lower pastures are used for the SBE and hay-making, it is not clear that a BFE could be operated sustainably alongside the SBE and the PE at Willow Farm.
28. The evidence is that the business at Willow Farm is primarily sheep-based and there is a seasonal need for a worker to be permanently on site during the lambing season. While the PE is undoubtedly a resource intensive activity, there is little compelling evidence of a functional need for a permanent rural worker to live on site. Associated agricultural activities relating to routine animal husbandry, land management and maintenance of machinery, while time-consuming, do not require a rural worker to live on site.

d) Alternative dwellings

29. There are no dwellings on the holding or buildings that could be converted to residential use. The market dwellings in the immediately surrounding rural area are not affordable on a rural workers salary. While more distant dwellings may not meet an essential functional need, no information has been provided in terms of the type of dwelling that the business could sustain or in relation to

the affordability and availability of dwellings in nearby settlements including Pattingham and Perton.

Evidence of a firm intention and ability to develop the enterprise

30. The appellants have been farming at Willow Farm since 2007. They have also rented land to accommodate the expanding needs of the SBE and they have purchased the land at Willow Farm. They have recently placed an order for an agricultural building to replace the pole barn and they intend to increase the size of the SBE flock and to increase the lambing percentage.
31. Except for the land used for haymaking, all of the pasture at Willow Farm is permanently grazed and the high stocking densities are maintained by supplementary feeding. While Willow Farm is only a small part of the holding, it is the focus of activities and it is the most intensively used of all of the land. In this regard, any further expansion of the SBE, the PE or a commercial BFE would inevitably put further pressure on the land at Willow Farm.
32. The appellants' have a clear intention to develop the enterprise. However, I share the Council's concerns about whether the business operations at Willow Farm are sustainable in the longer-term, taking into account increasing stocking densities, the competing pressures on the land from the various activities and the need to maintain the land in good agricultural condition.

Has the enterprise been planned on a sound financial basis

33. Financial accounts have been provided for the years ending 2016-2019. These show small profits in 2 years, a substantial loss in 2018 and a small loss in 2019. The significant loss in 2018 is attributed in large part to the impact of the severe winter storms that year and also to investment in the business.
34. Irrespective, the business accounts are amalgamated for the SBE, the PE and a wider trading activity relating to the purchase and direct transport of livestock to the abattoir without passing through Willow Farm. By the appellants' own admission, the financial accounts are not therefore a reliable indication of the financial viability of the agricultural operations at Willow Farm.
35. Although some 6 months have passed since the year end, the financial accounts for 2020 are not yet available. At the Hearing, Mr Anning stated that the business made a substantial profit in the year ending 2020, due in large part to the impact on lamb prices of the coronavirus pandemic lockdown in March. However, it seems reasonably unlikely that many, if any, of the 2020 early lambs would have been ready for finished sale by the end of the financial year. Moreover, no substantive evidence was presented in terms of the numbers of SBE lambs sold at a significantly higher price or the implications of lockdown for the PE or the wider trading activity.
36. There was a discussion at the Hearing as to whether or not it would be helpful for the latest accounts to be provided. In this respect, the 2020 accounts will be combined for the various agricultural and wider trading activities. Therefore, as with the previous years' accounts, they would not demonstrate the financial viability of the agricultural business.
37. The business plan predicts substantial gross profits from year 1 onwards, but it does not include full details of costs such as labour or transport, legal and bank charges, land rental or capital costs. Notwithstanding the unusually large loss

in 2018, and the proposed increase in SBE flock size, it has not been adequately explained how the business would rapidly go from very modest net profits at best to significantly large sustained profits in future years. Moreover, while the static caravan is already on the site and the appellants live frugally within their means, there is little evidence that the business could sustain 1, let alone 2, reasonable living wages. Therefore, and taking account of the absence of reliable accounts in relation to the agricultural business in previous years, it is not clear that the business has been planned on a sound financial basis.

38. The appellants are seeking permission for a temporary dwelling in order to demonstrate that the business can support a permanent dwelling. Nonetheless, the business has been operating for over 10 years and the static caravan has already been on site for 3 years, which would appear to have already been a reasonable amount of time to account separately for the agricultural business.
39. Therefore, having regard to the functional requirements of the business and the financial aspects, an essential need for a rural worker to live permanently at Willow Farm has not been demonstrated. Consequently, the proposal is in conflict with the requirements of Policy EV8 of the CS.

Other Considerations

40. The nearby Grange Farmhouse Grade II listed building dates from the 17th century. It is timber-framed with painted brick infill and rendered stone or brick with a clay tile roof. The listing building is approximately 40m from the appeal site. It is set in its own grounds which are separated from the appeal site and the Willow Farm by its private access road and the vegetated field boundary. Given the degree of separation, the modest size of the caravan and the nature of the intervening land, the Council considers that the caravan does not harm the listed building or its setting and I see no reason to disagree. The absence of harm in this respect does not weigh in favour of the scheme.
41. The agricultural business provides rural employment and economic support for other rural businesses including farm contractors, feed merchants and veterinary surgeons. These benefits would have flowed from the business during the time that it operated without a rural workers dwelling. Therefore, the wider economic benefits do not appear to be dependent on the appeal scheme and therefore they carry limited weight in favour of it.
42. There would be no adverse impacts on the safe operation of the highway. Although the development has already been carried out, given the improved nature of the agricultural grassland at Willow Farm and the small scale of the development, adverse impacts on biodiversity appear reasonably unlikely. These are requirements of planning policy and they do not weigh in favour of or against the proposal. I note the concerns in relation to the highway access over third party land. However, this is a private legal matter.
43. Following the sale of Mrs Anning's family home, the appellants required alternative accommodation in the area. In this regard, the caravan at Willow Farm will be a convenient and cost-effective form of accommodation. Nevertheless, the appellants' personal circumstances are not related to the needs of the business and they do not weigh in favour of the scheme.
44. My attention has been drawn to appeal decisions relating to agricultural worker dwellings elsewhere, including in the Green Belt. The evidence concerning the

alpaca breeding business indicates that alpacas are expensive animals that breed at any time of year with potentially high mortality rates. The site was also in an area subject to thefts and dog attacks and the business was profitable and supported a full-time worker with a reasonable salary. In the case of the horse livery, it was in an isolated location where theft was a problem and there was an established essential functional need. While the livery business was not particularly profitable, the Inspector allowed a temporary log cabin to be occupied on a permanent basis subject to conditions that linked the permission to the appellant as well as to the business. Neither case appears directly comparable to the appeal scheme and they do not provide a justification for it.

Green Belt balance

45. The proposal is inappropriate development in the Green Belt and it has resulted in a small but significant loss of openness and conflict with the purposes of the Green Belt. The adverse impact on the character and appearance of the area is a modest harm that weighs against the proposal.
46. There is a seasonal need for a rural worker to be present during the lambing season, but there is no essential functional need for a worker to live permanently at Willow Farm either in connection with the SBE or the PE. While the appellants have been farming the land for several years, it has not been demonstrated that the agricultural business is financially sound. Moreover, while the business plan predicts substantial gross profits almost immediately, given that the previous years accounts are not reliable, it is not clear that the enterprise has been planned on a sound financial basis.
47. Therefore, the needs of the business do not outweigh the harm that I have found. Consequently, there are no other considerations that would amount to the very special circumstances necessary to justify the development.

Conclusion

48. For the reasons set out above, the appeal is dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Caroline Anning (appellant)

Mr Gary Anning (appellant)

Mrs Melanie Holt BA (Hons) PgD MRICS FAAV (Moule & Co Ltd, Planning Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Baggott MA MRTPI (Tyler Parkes Partnership)

Mr Anthony Atkinson MRICS FAAV (Acorus Rural Property Services)

INTERESTED PERSONS:

Mr DeVries (observing from the Council)

Ms Jovanovic (observing from the Council)

Mr Phillip Collins

Mr Norman Levers

Mr Mike Powell