

---

## Appeal Decision

Site visit made on 4 August 2014

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 August 2014**

---

**Appeal Ref: APP/R3325/A/14/2218272**

**The Paddock, Birchwood, Chard, Somerset TA20 3QH**

- 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 Ms Helen Humble against the decision of South Somerset District Council.
  - The application Ref 13/04961/FUL, dated 27 November 2013, was refused by notice dated 24 February 2014.
  - The development proposed is "1) Change in use of land from agricultural to mixed use with residence. 2) Retrospective permission for retention of 3 No shepherds huts, decking, summer house and extension to existing garage for accommodation linked to business plan. 3) A personnel permission to reside on the land for Helen Humble. 4) To allow non-residential use of a yurt 28 days a year, siting of a compost toilet for community use."
- 

### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Ms Helen Humble against South Somerset District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The drawings submitted for the appeal included a site location plan (ref Drg.No.TP01) that showed Bray Cottage and land surrounding it to be within the ownership of the appellant. This was different to the drawing considered by the Council in their determination of the planning application, which showed no other land apart than the appeal site being in the ownership of the appellant. The appellant has confirmed that she only owns the land outlined in red on this drawing. With the agreement of the parties I have considered the appeal on the basis of the land ownership as considered by the Council in its determination of the application.
4. The site area shown on Drg.No.TP01 differs from that shown on Drawing No TP04. Whilst it was advised on site by the appellant that the application site area was as shown on Drg.No.TP01, Drawing No TP04 shows the details of the proposed layout for the development, but excludes the southernmost tip of the site. Both parties have confirmed that the site area would be as shown on Drg.No.TP01, and that the proposed paddock for the alpacas would extend to the southern boundary as shown on this plan. I have therefore considered the appeal on the basis of the site area being as shown on Drg.No.TP01.

## Main Issues

5. The main issues are **firstly**, whether the enterprise justifies residential accommodation, having regard to the aims of national and local planning policies which seek to restrict new residential development in the countryside; **secondly**, the effect of the proposal on the character and appearance of the surrounding countryside, having particular regard to the location of the site within the Blackdown Hills Area of Outstanding Natural Beauty; **thirdly**, whether the personal circumstances of the appellant outweigh local and national policies that aim to restrict residential development in the countryside; and **fourthly**, whether it would create a precedent.

## Reasons

### *Countryside Location*

6. The appeal site lies in the countryside within a small cluster of residential properties. It occupies the corner formed by the junction of Blind Lane with Waterhayes Lane. The properties in Birchwood are mostly detached houses in large gardens, positioned on a hillside. The surrounding area is a mix of farmland and woods, with many of the fields being bounded by hedgerows. The hills and narrow, steep sided valleys, are a striking feature of the area, and combined with the fields, hedges and woods, gives an attractive and verdant appearance to the landscape.
7. The northern boundary of the site is bounded by a mature hedgerow, near to which are the three huts that are the appellant's home. They are positioned in a C-shape with a covered wooden veranda between them that provides access to the huts and additional space. Vehicular access to the site is at the corner near to the road junction, with a gravelled area providing parking. Beyond this is a wooden summerhouse, whilst to the western side of the huts are further outbuildings and an additional parking area.
8. Birchwood is an isolated settlement within a rural location, and any occupiers of the appeal site would be heavily reliant on the private car to access employment, shops, leisure and other facilities. The residential use of the site would be contrary to the requirements of Policy ST3 of the South Somerset Local Plan (2006) (LP), that seeks to strictly control and restrict development to defined settlements.
9. Under the requirements of paragraph 55 of the National Planning Policy Framework (the Framework), where isolated new dwellings in the countryside are to be provided there should be special justification for them, such as an essential need for a rural worker to live permanently at or near their place of work in the countryside. The appellant has provided a Business Plan for 2013 – 2018 that proposes a number of uses for the site that she considers would require a need to live there.
10. It is the appellant's intention to initially only have 3 breeding alpacas, and these would be housed on site overnight and mostly grazed elsewhere. Whilst I appreciate the potential for difficult births with alpacas, the numbers kept would be small, and would only increase gradually, after several years, and in the meantime the appellant would be working part-time. On the basis of the evidence before me concerning the appellant's intentions for the keeping of

alpacas, there would not be an essential need for a permanent dwelling on the site.

11. In addition to caring for the alpacas, bees and chickens, the appellant would also be running yoga and therapy workshops from the appeal site. The sessions would only be for limited numbers at any one time. Nevertheless, the remote location of the site would necessitate a heavy reliance on the private car. I note the appellant's contention that small businesses and rural diversification should be encouraged, and that car-sharing and sustainable means of transport would be promoted to users. However, the site is located in a remote area, on a steep hillside. The roads to it are unlit, and as such I do not consider that walking or cycling to the site would be either safe or convenient. The Framework supports a prosperous rural economy that is based on sustainable development, including seeking to reduce the reliance on the private car. On the evidence before me, the proposal would not satisfy these requirements.
12. I acknowledge the appellant's connection to the land, and that such classes could provide a community and personal benefit for some people in an attractive location. However, neither the yoga or therapy sessions, nor the community toilet and library, would require an essential and permanent requirement to live on the site.
13. I therefore do not consider that the enterprise proposed for the site would justify a permanent dwelling. As such, it would be contrary to the objectives of the Framework referred to above, and the requirements of LP Policy ST3.

#### *Character and Appearance*

14. The site lies within the Blackdown Hills Area of Outstanding Natural Beauty (AONB), and the Framework requires the protection of these areas, placing great weight on conserving their landscape and scenic beauty. LP Policy EC2 favours the conservation of the natural beauty of the landscape, and development proposals that would cause unacceptable harm to the natural beauty of the landscape should not be permitted.
15. The appeal site lies on a hillside in a landscape that has a dramatic and verdant quality due to the topography and presence of agricultural fields, mature hedgerows and trees. In addition to the huts and the associated covered decking, there is a summerhouse to the east of them, and a garage and shed to the west. Whilst the huts are painted to blend in with the surrounding countryside, they are clearly visible within the area, and can be seen from Waterhayes and Blind Lanes. The huts, combined with the car parking, existing outbuildings and current domestic uses occurring on the site, have substantially changed its character and appearance to one dominated by residential buildings and uses, which is at harmful odds with the natural beauty of the AONB.
16. Furthermore, the additional uses proposed by the appellant for the site would require a number of other buildings and structures, including a yurt, a toilet for community uses, a mobile chicken coop and a field shelter. Whilst the latter two structures would be expected features of a rural landscape, they would be located apart from each other, and would spread development across the site. Although some of the proposed buildings and structures would not be permanent, they would nevertheless have a presence. When combined with

other proposed structures and alterations, including the enlarged area that would be required for parking and the provision of visibility splays, along with the retention of the existing buildings, they would significantly change the appearance of the site and would unacceptably erode the open and scenic character of this protected landscape.

17. I appreciate that some structures were in place before the huts were installed. Notwithstanding this, the retention of the existing buildings and uses and the provision of the proposed ones and structures, would be contrary to LP Policy EC2 and the objective of the Framework that seeks to conserve the landscape and scenic beauty of AONBs.

*Personal Circumstances*

18. The appellant considers there are important personal reasons that necessitate her continuing to live on the site. The appellant has lived in Birchwood for many years, and has experienced a number of life events there, including selling the family home, Bray Cottage. Several people have stated that she is a much liked and respected member of the community, and that her work and activities are greatly valued. However, these in themselves are not the special justification as required by the Framework for granting planning permission in this case.
19. A refusal of planning permission would oblige the appellant to leave the site. The Inspector for the previous appeal on the site considered the personal circumstances of the appellant in great depth before dismissing it. The appellant has a strong emotional attachment to the area, and considers her home is fundamental to her well-being, and leaving it would impact on her ability to undertake her job. As with the previous appeal, these are not matters to be considered lightly.
20. The appellant has produced medical evidence which suggests that removal from her home would be "*likely* to have a deleterious impact on her mental health functioning" (my emphasis). Clearly there is concern as to the impact dismissing the appeal would have on the appellant's health. However, this medical advice is tentative. Furthermore, as noted above, the appellant has only lived on the appeal site since the sale of Bray Cottage. In my consideration of the case before me I have not dismissed the appellant's concerns lightly, but where an exception is to be made in overriding national and local policy, the evidence has to be decisive. On the basis of the evidence before me, this is not the case.
21. The appellant has referred to her rights under Articles 8 and 9 of the Human Rights Act. I recognise that the dismissal of the appeal would interfere with the appellant's home and family life, and that she considers she would not be able to practice her spiritual beliefs or needs if she has to move from the site. However, this must be weighed against the wider public interest. For the reasons given above, I have found that the proposal would not be sustainable development, nor protect the natural beauty of the AONB. I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of planning permission. On balance, I consider the dismissal of the appeal would not have a disproportionate effect on the appellant.
22. I therefore find that in this case the personal circumstances of the appellant are not sufficient to outweigh the restriction of residential development in the

countryside, and as such it would be contrary to LP Policy ST3 and the objectives of the Framework referred to above.

*Precedent*

23. The Council are concerned that this case would cause a precedent for similar applications both in the AONB and elsewhere in the countryside. Whilst there is considerable pressure from people who want to live in the countryside, the restrictive LP Policies and the objectives of paragraph 55 of the Framework, have considerable weight. Where there are compelling grounds for granting permission on the basis of the circumstances of an individual, these would need to be carefully assessed on an individual basis in light of the development plan and all other material considerations.

**Other Matters**

24. The appellant and local residents have referred to a number of other developments in the area that have been permitted, including large farm buildings. However, they are not comparable to the scheme I have before me, nor do I have the full planning history of these developments before me, and in any case each application has to be treated on its own individual merits in accordance with the requirements of the development plan and all other material considerations.

25. Finally, concerns regarding the Council's handling of the application relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

26. When considered either separately or together, neither of these other matters would outweigh the harm I have found as regards the main issues.

**Conclusion**

27. For the reasons given above and having considered all other matters raised, the appeal is dismissed.

*J J Evans*

INSPECTOR