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# Appeal Decision

Hearing held on 25 June 2013

Site visit made on 25 June 2013

**by David Morgan BA MA (IoAAS) MRTPI IHBC**

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

**Decision date: 29 July 2013**

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**Appeal Ref: APP/R3325/A/13/2193795**

**Wagg Meadow Farm, Wagg Drove, Langport, Somerset TA10 9ER**

- 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 Simon Davis against the decision of South Somerset District Council.
  - The application Ref 12/04366/FUL, dated 6 November 2012, was refused by notice dated 5 February 2013.
  - The development proposed is provision of siting of temporary agricultural workers dwelling in the form of two linked mobile homes; the erection of one agricultural barn; change of use of one building for industrial development, with staff facilities, refrigeration and storage, food packaging storage, and area for egg incubation (agricultural use) all ancillary to the primary use, B2 poultry processing (retrospective planning permission required).
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## Decision

1. The appeal is allowed and planning permission is granted for alterations to existing barn structure, including creation of staff facilities, storage, packing and activities associated with the processing of poultry (B2 use), erection of agricultural barn and siting of temporary agricultural workers dwelling at Wagg Meadow Farm, Wagg Drove, Langport, Somerset TA10 9ER in accordance with the terms of the application, Ref 12/04366/FUL, dated 6 November 2012, subject to the conditions set out in the schedule at the end of this decision.

## Procedural matters

2. The description of development set out in the formal decision differs from that set out in the planning application, that set out on the decision notice and that set out in the appeal application form, all of which are in fact different. At the Hearing it was agreed that a hybrid description more accurately and succinctly reflecting what was proposed should be preferred; this is reflected in the wording of the formal decision above.
3. The Council raise no objection to the change of use of the existing building ('Barn 1') as such (subject the highways objection) nor do they object to the proposed second barn on the site. The Council do however express concern over the future use of the Barn 1 in the event the present/proposed business fails; this is addressed in *Other matters* below.
4. An Order revoking The Regional Strategy for the South West came into force on the 20 May 2013, after the lodging of this appeal. This Order also revokes the saving provisions relating to all Structure Plans in the area (with the

exception of policy 6 of the Somerset and Exmoor National Park Joint Structure Plan relating to Bristol/Bath Green Belt policy). These revocations have been taken into account in relation to the evidence presented and in the determination of the appeal.

### **Main Issues**

5. These are a) whether there is an essential need for an agricultural workers dwelling on the site to meet the needs of the proposed business and b) whether or not Wagg Drove, by reason of its restricted width and alignment, can serve as a suitable means of access to the site for the type of traffic likely to be generated by the use.

### **Reasons**

#### *Essential need*

6. In their Statement the Council reaffirm their position when the application was determined that there was insufficient information to support the claim there is an essential functional need for an agricultural dwelling on the site, and that the business had been planned on a sound financial basis. However, they also accepted, with some equivocation in their Statement, and unambiguously at the Hearing, that the appellant had submitted a significantly more detailed justification on both counts, and that the case had now been made for the temporary dwelling.
7. This information included an independent business appraisal of the business plan for the enterprise, prepared by the Laurence Gould Partnership. This appraisal confirms the site will be connected to the mains electricity network and that additional grazing land, to be managed as part of the holding, will be leased by the appellant. It also confirms, significantly, that a loan of £10,000 had been agreed for the appellant, subject to planning permission, from the Frederickson Foundation, a charitable organisation and company limited by guarantee offering business loans to those unable to source finance through mainstream banks. This offer has subsequently been confirmed separately by the Foundation in writing.
8. Having studied this additional information, especially the business appraisal, heard the oral evidence of the appellant at the Hearing, and looked at the evolving enterprise on the site, I agree with the Council that the sum of evidence provided does indeed now successfully establish an essential functional need for a dwelling on the site, and that the business has not only been planned on a sound financial basis, but has a very reasonable prospect of growing in the future.
9. On this basis, I consider the proposals accord with the expectations of paragraph 55 of The National Planning Policy Framework (henceforth referred to as *The Framework*), first bullet point, and with saved policy HG15 of the South Somerset Local Plan (SSLP). In accordance with established expectations in these circumstances, a condition is attached to the planning permission limiting the consent to three years, reflecting the conclusions set out above.

*Suitability of Wagg Drove for assess to the proposed use*

10. Wagg Drove is a narrow and sinuous lane linking the B3152 to the north and the A372 to the south, both reasonably busy classified roads. The lane is essentially rural in character with some residential plots at its southern end with more dispersed dwellings and farm holding further to the north; it is bisected by a bridge carrying the Great Western main line near mid-way along its length.
11. The highway authority is right in my view that the proposed use would result in an increase in vehicular activity along the lane. They are also legitimate in expressing concern in relation to the use of the Wagg Drove/ B3152 junction, where there have been a number of accidents recorded in its vicinity. However, the activities to which these concerns relate are the poultry processing enterprise, rather than the greater agricultural holding and its now accepted essential worker accommodation. Indeed, the highway authority accepts this point, conceding they do not usually comment on agricultural dwellings. Certainly the presence of a substantial new agricultural holding and dwelling to the north along Wagg Drove appears to affirm that the significant level of vehicular activity associated with this holding has not caused concern sufficient to prevent the grant of planning permission in that case.
12. The poultry processing will necessitate additional trips to farmers markets and local enterprises, and would be generally undertaken by van or 4X4 vehicle and trailer. This would represent an increase of activity along the lane but would be generally confined to specified delivery or marketing days rather than a generalised increase in trips across the week. Moreover, in relative terms, the increase in trips would not be so great, in my view, so as to significantly increase the risk to highway users or those using the site. The junction with the B3152 does necessitate care, especially when turning to the right. However, this is but one of the options for accessing and leaving the site and the southern exit, being the closer, is perhaps more likely to be preferred. Although the lane is single track, I noted a significant number of passing places along its length and again, given the generally very low volume of traffic on the lane, the increase in the number of trips will not result in any significant disruption to the free flow of traffic using it. For these reasons therefore I see no conflict with policy ST5 of the SSLP, nor the national policy expectations of The Framework.

**Other matters**

13. The Council have expressed concern at the absence of a section 106 agreement assuring the clearance of the site in accordance with the terms of the extant enforcement notice in the event that the business fails after the three year period. The foundation of this concern being that without such an assurance, with the grant of planning permission for Barn 1, and the subsequent failure of the business after three year, the unit would then become redundant. This may then in turn potentially facilitate an application to convert the building to residential use, thus circumventing the Council's rigorous approach to controlling residential development other than that required for agriculture in the countryside. Given the planning history of the site, I can understand the Council's concerns in this regard. However, No such 106 agreement is before me, I do not consider there is an appropriate mechanism for securing it in relation to this case, and there is no substantive basis for dismissing the proposals in its absence. Moreover, the relevant policies of the local

development plan should furnish a robust bulwark against inappropriate residential development in the countryside. Any such proposals, should they come to pass, will need to be assessed on their own merits and against those hopefully robust policies. I am confident that such a mechanism is sufficient to ensure any such proposals are rigorously assessed, thus obviating the need for the section 106 agreement favoured by the Council.

### **Conditions**

14. The appeal being allowed, conditions are attached requiring that the first part of the drive is appropriately surfaced, that details are submitted facilitating the disposal of surface water on the site avoiding the highway and that the designated parking area is kept clear and retained for that purpose, all in the interests of highway safety.
15. Conditions are also attached requiring that the development be commenced within one year of the date of the decision as this accords with the business plan submitted with the appeal and ensures prompt implementation of the proposals; a condition is also attached requiring the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of sound planning.
16. Conditions are also attached requiring that the occupation of the temporary dwelling be restricted to a worker employed in agriculture or their dependents as the site is in an area where policy seeks to restrict residential development to that required to meet the needs of agriculture and rural enterprises. A condition is also attached securing the removal of the temporary dwelling after a period of three years, to ensure the proposal meets the functional and financial tests set out in local development plan policy.
17. A condition is attached requiring the submission of surface water drainage management scheme, to overt any increased risk of flooding and to improve and protect local water quality. Conditions are also attached requiring the submission of an acoustic report in respect of electricity generators on the site associated with the use and restricting waste collection and deliveries to the site to specified periods, both in the interests of the living conditions of adjacent occupiers.
18. A condition is attached requiring the submission of a landscape scheme for the site and its future management in order that there is a satisfactory appearance to the development in its landscape context and finally a last condition is attached specifically restricting the use of Barn 1 to that of the processing of poultry and associated activities, to expressly determine the scope of the proposed use of this building.
19. For the reasons given above and having considered all matters raised in evidence and at the Hearing. I conclude that the appeal should be allowed.

*David Morgan*

**Inspector**

## **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than one year from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Plans, elevations and site Sections received 07 November 2012.
- 3) The access over the first 10m of its length shall be resurfaced, properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing prior to any works commencing by the Local Planning Authority, and thereafter maintained.
- 4) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority and thereafter maintained, prior to installation.
- 5) The area allocated for access/parking on the submitted plan shall be kept clear of obstruction at all times and shall not be used other than for access and parking of vehicles in connection with the development hereby permitted.
- 6) The occupation of the mobile homes shall be limited to a person solely or mainly employed in agriculture at the property known as Wagg Meadow Farm, as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.
- 7) The caravans hereby permitted shall be removed and the land restored to its former condition within three years of the date of this permission.
- 8) No development shall commence until a surface water drainage scheme for the hard surface sections of the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
- 9) Prior to the use of any generators or fixed plant on site in connection with the use hereby permitted, an acoustic report shall be submitted to and approved in writing by the local planning authority establishing permitted acceptable noise levels on the boundary of the site. Such equipment will only be used within the parameters laid out in the approved acoustic report.
- 10) Waste collection and any deliveries or dispatches to or from the site shall be limited to the hours of 8.00 am to 5.30 pm Monday to Friday and 9.00am to 2.00 pm Saturday. There shall be no waste collections, deliveries or dispatches from the site on a Sunday or Bank holidays.
- 11) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all

existing trees and hedgerows on the land, as defined by the red line on the submitted plan, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The scheme of landscaping shall include details of the retention and rotational management of the existing woody vegetation.

- 12) The building labelled 'Barn One' on the submitted plan titled 'Block Plan – Proposed' hereby approved shall be used for the processing of poultry and associated activities and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Simon Davis (Appellant)                      Wagg Meadow Farm

Ms Cora Edwards                                      Wagg Meadow Farm

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Dominic Heath-Coleman                      South Somerset District Council

Mr Adrian Noon                                      South Somerset District Council

Mr Carl Brinkman                                  Somerset County Council

## **Documents presented at the Hearing**

1. Council notification letter of Hearing event.