



# Appeal Decision

Hearing held on 7 May 2024

Site visit made on 7 May 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 May 2024**

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**Appeal Ref: APP/Y3940/W/23/3327751**

**Meadow View Farm, Bradford Leigh BA15 2RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Hillier [Norbin Farm Ltd] against the decision of Wiltshire Council.
  - The application Ref is PL/2022/09147.
  - The development proposed is described as 'the erection of agricultural worker's dwelling and associated works.'
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. Prior to the Hearing an application for costs was made by Mr Andrew Hillier [Norbin Farm Ltd] against the decision of Wiltshire Council. This application is the subject of a separate decision.

## Procedural Matters

3. The appellant requested that the appeal be dealt with by the written representations procedure. Due to interested party representations and the Council's first reason for refusal raising concerns that very special circumstances for the erection of a dwelling in the Green Belt had not been demonstrated, I am satisfied that it was necessary to clarify the evidence regarding the essential need for the proposal and that the appropriate procedure was that of a Hearing<sup>1</sup>.
4. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). The parties acknowledged at the Hearing that although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal.
5. The appeal site lies outside the area for the Holt Neighbourhood Plan (2017) such that I have not had regard to it in my decision.
6. The proposal is for a new dwelling within the Green Belt, albeit restricted to an agricultural worker. Paragraph 154 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. As the proposal does not meet any of the exceptions within paragraph 154, the parties

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<sup>1</sup> Criteria for Determining the Procedure for Planning, Enforcement, Advertisement and Discontinuance Notice Appeals' guidance (2022).

agree that it is inappropriate development. Based on all that I have read including interested party representations, and the discussions at the Hearing, the main issues in relation to this appeal are;

- i) The effect of the proposal on the openness of the Green Belt;
- ii) The effect of the proposal on the character and appearance of the area;
- iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including whether there is an essential need for a dwelling to accommodate a rural worker at the site, so as to amount to very special circumstances necessary to justify it.

## **Reasons**

### *Openness*

7. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guide (PPG)<sup>2</sup>.
8. The appeal site consists of a field adjoining the main road through the hamlet of Bradford Leigh. Other than an access track leading to the Meadow View Farm (MVF) barn to the north, the site is undeveloped. The erection of a dwelling, even one which is single storey in scale, would therefore result in the introduction of built development where presently there is none, resulting in the 3-dimensional erosion of space.
9. Mature hedging exists along the south-western and the roadside boundaries, which provides some screening of the appeal site. However, there is a small gap to the front through which the proposed dwelling would be visible in very localised views, as was evidenced by the ability to see the existing pile of mounded earth/debris from the road.
10. A close boarded fence has been erected along the north-eastern boundary precluding views from the adjacent public right of way (PROW). Similarly wooden panels have been added to the front side of the field gates. It is not clear whether the gates would remain in this rudimentary form. Even if they did, due to the recessed nature and relatively wide span of the access onto the main road, it is clear that the bulk and scale of the proposed dwelling, particularly the north-eastern gable and rear projection, would still be visible in localised views above the gates.
11. The proposal would lead to the encroachment of development into the countryside resulting in permanent harm to the spatial and visual openness of the Green Belt. Consequently, I find conflict with paragraph 142 of the Framework as set out above.

### *Character and Appearance*

12. The West Wiltshire District Landscape Character Assessment (LCA) 2006 identifies the appeal site as being within the Limestone Lowland landscape character area. This area consists of gently undulating and verdant lowland

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<sup>2</sup> Paragraph: 001 Reference ID 64-001-20190722.

farmland such that it has a strong rural character. The LCA identifies the need to conserve and enhance the current pattern of fields with hedgerows and acknowledges that the pressure for development along rural lanes is a threat to the landscape character.

13. I observed that there is sporadic development within the vicinity of the appeal site and that this consists of dwellings of various ages and forms, often with landscaped front gardens that front the main road. However, there are variations in the positions of such dwellings relative to the road and there are significant gaps formed by agricultural and other land between some properties as well as the road. Notwithstanding the findings of the previous Inspector, it seems to me that existing built form does not represent a wholly continuous pattern of linear ribbon development. Irrespective, the overwhelming character is of rolling countryside contained by verdant hedgerows and trees. Free from buildings, the appeal site contributes positively to the rural landscape.
14. As discussed above, the siting of the dwelling in an undeveloped field would result in the encroachment of built development into the countryside, to the north of the main road. Although designed to appear as a converted shippoon, the proposed dwelling would nonetheless appear as a domestic bungalow with associated garden and parking area. Despite its single storey form, and provision of hedgerow screening to the west and south, it would still be visible in localised views from the south-east above the existing modified field gates, adjacent post and rail fence and through the gap in the hedgerow to the front.
15. The planting of a new hedgerow to the north and east of the proposal would offer a degree of softening and screening to the curtilage of the dwelling. Over time this would further reduce the visibility of the development. However, it would take a number of years to mature and would be unlikely to mitigate the proposed development in its entirety due to the overall scale of the proposed dwelling.
16. Whilst the appellant suggested at the Hearing that stone buildings with red brick quoins are typical of Wiltshire, neither of the parties could draw my attention to any examples found specifically within the vicinity of the appeal site. I observed during my visit that the majority of buildings nearby consisted of stone with stone quoins. This matter could be overcome with a planning condition requiring the submission of material details and/or samples, should the proposal be considered to be acceptable in all other regards.
17. The proposal would further result in the re-routing of the access track to the barn to run parallel with the PROW. If the existing gates were to be removed and I note that they are not shown on the proposed site plan<sup>3</sup>, the track would be more readily visible in public views than the present route along the eastern boundary, such that the encroachment of development upon the countryside would be more evident.
18. New development along a rural lane that is visually and spatially detached from any other built form on the northern side, would detract from the positive contribution the appeal site makes to the rural landscape. It would erode the existing field pattern, such that it would not conserve or enhance the open landscape character.

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<sup>3</sup> Drawing number LPC 5325 PR 01 Rev B.

19. Notwithstanding that materials could be dealt with by condition, the siting and scale of the proposed dwelling would result in modest harm to the character and appearance of the area. It would be contrary to Policies 51 and 57 of the Wiltshire Core Strategy (CS) 2015 which require development to protect, conserve and where possible enhance landscape character, and to ensure development relates positively to its landscape setting and the existing pattern of development.

### *Other Considerations*

#### *Farm Operations*

20. There is no dispute that the appeal site is located outside of any designated development boundary. Policy 48 of the CS provides support for dwellings required to meet the employment needs of rural areas. Similarly, paragraph 84 of the Framework seeks to avoid the creation of isolated new dwellings in the countryside unless particular circumstances apply. This includes the need for a rural worker, to live at or near to their place of work in the countryside.
21. The parties agree there is an essential need for the proposed dwelling and the appellant points to this also having been accepted by the previous Inspector<sup>4</sup>. However, the need for a dwelling on this particular site is disputed by a number of interested parties including South Wraxall Parish Council.
22. The appellant's written evidence states that a herd of 98 suckler cows together with their calves are kept on 48 acres of land at MVF<sup>5</sup>, which is treated as a separate holding in terms of cattle to the wider beef rearing enterprise of Norbin Farm. Cows are said to be outwintered and calved outdoors all year round at MVF, with only emergency use of the agricultural shed.
23. The Cooper and Tanner Agricultural Planning Appraisal (APA) seeks to justify the proposed dwelling on the basis that at any one time at MVF, 98 cows and additional young stock will be kept together and so a large number of incidents can regularly occur particularly as a result of calving, which require the prompt attention of one or more workers.<sup>6</sup>
24. Interested parties suggest that a suckler herd has never been seen at MVF, that there is insufficient land to support the number of animals and that the barn has been used to house beef cattle<sup>7</sup>. At the Hearing the appellant confirmed that there have never been 98 suckler cows at MVF and that there is insufficient land to support this number of animals. This contradicts their written evidence.
25. I observed that there was a suckler herd in the field to the north of the appeal site at the time of my visit. However, the addendum to the APA confirms that cows and calves were not at the appeal site at the time of the surveyor's visit on 12 June 2023<sup>8</sup>. Photographs in Appendix 1 of the APA also confirm the presence of at least some of the suckler herd at Norbin Farm. The APA implies that the suckler herd has been located at Norbin Farm because of the lack of a dwelling at MVF from which such a herd could be managed. The addendum also

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<sup>4</sup> Appeal reference APP/Y3940/W/22/3294187.

<sup>5</sup> Paragraphs 5.2.1, 6.1.1 and 8.1 of the Cooper and Tanner Agricultural Planning Appraisal and paragraph 2.8 of the LPC Trull Ltd Appeal Statement.

<sup>6</sup> Paragraph 8.1.

<sup>7</sup> Supported by photographic evidence and undisputed by the appellant.

<sup>8</sup> As confirmed at paragraph 5.3 of the appellants statement of case.

makes reference to moving the herd permanently to MVF, again inferring it has been permanently located at Norbin Farm<sup>9</sup>. Given the evidence presented by interested parties and the appellant's contradictory evidence it seems to me that the suckler herd has not been solely based at MVF as presented in the appellant's written evidence.

#### Essential Need

26. It is understood that calves have to be born at MVF in order to be classed as organic. However, the appellant's oral evidence suggests that the operations at MVF are intrinsically linked to the activities that take place at the wider enterprise, where there is a greater presence of organic land. The appellant's oral evidence suggests that animals are moved in batches between Norbin Farm and MVF and that no more than 30-40 cows would be present at MVF at any one time, as is the existing situation and would remain the case even if the herd was to be expanded to 250 cows<sup>10</sup>.
27. Little information has been presented as to how and when the cows are inseminated to understand the frequency of calving activities. Whilst it is suggested that cows would on average calve every other day once stock levels are increased, there may be periods when there are multiple calving's and some periods when there are none, particularly as the evidence indicates the animals are calved in batches. Without expansion of the herd, calving would be significantly less than one every other day on average.
28. Although reference was made to a business plan at the Hearing, no such document has been submitted as part of the appeal process. No evidence has been presented as to how and when the suckler herd would be grown to a head of 250 cows, how it would be sustained over time or how the operations would be linked to the wider enterprise of Norbin Farm. Indeed, it is not known whether Norbin Farm is contiguous with or physically separate to the land at MVF. Nor has evidence been presented as to why Norbin Farm cannot have an organic classification so that calving could occur there.
29. Whilst the appellant suggests that the greater number of cows at MVF results in a greater functional need for the proposed dwelling, the ambiguous evidence regarding stock levels and location, calls into question whether there is sufficient need specifically at MVF and therefore, whether the appeal site is the appropriate place for a new dwelling to serve the enterprise.
30. Although the Council's agricultural consultant accepted that there was a need for a full-time worker at MVF, this was predicated on the basis of there being a permanently expanded 250 strong suckler herd there<sup>11</sup>. Even if the full-time worker requirement could be accepted, this is separate to whether there is a functional need for that worker to have a 24-hour presence all year round.
31. MVF does not currently have a dwelling and it is understood that the farm worker lives 3 miles away in rented accommodation, while the appellant lives at Norbin Farm. I do not doubt the importance of closely monitoring a cow and its calf shortly before, during and soon after giving birth for animal welfare reasons. However, even if I could accept that calving has taken place at MVF as suggested at the Hearing, no evidence has been presented to demonstrate that

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<sup>9</sup> Paragraph 4 of the APA.

<sup>10</sup> As advised by Mr Hector during the Hearing.

<sup>11</sup> As set out in the Agricultural Assessment of Planning Application by A.M Coke dated 16 June 2023.

there have been negative consequences to the welfare of animals or the enterprise from the remote management of circa 30-40 animals. There is no indication of the number of births that require human intervention.

32. Given that the number of animals would not increase at MVF even if the total herd is expanded, it is unclear as to why MVF could not continue to be managed remotely. No evidence has been presented to demonstrate whether technologies are, or could be, used to assist with calving activities, or that a temporary form of accommodation would not be appropriate. The onus is on the appellant to provide sufficiently transparent and unambiguous evidence. Given the incomplete evidence provided, I cannot have confidence in the essential need for the proposed dwelling.
33. Interested parties have queried the ability of the appellant to use the existing building at MVF for the purposes of housing livestock. The 2 applications considered and permitted under the Town and Country (General Permitted Development) (England) Order (GPDO) 2015 were for 2 buildings for the storage of hay, straw, fodder and machinery. GPDO conditions prevent their use for accommodating livestock, other than in emergency situations such as calving<sup>12</sup>. Internally there is no division such that it now functions as a single building, in use for very limited storage at the time of my visit.
34. The use of the barn is not a matter before me in the strictest sense. Whilst the use of the building for calving purposes may have implications for the approved finishing unit licence, it is a matter for the appellant. If the building is used contrary to its permitted use for the prolonged housing of livestock, the Council has the option of pursuing enforcement action.
35. The Framework should be read as a whole. Thus, the general support for the development and diversification of agricultural and other land-based rural businesses within paragraph 88a) and b) does not set aside the requirement to demonstrate an essential need for a rural worker to live at their place of work, or the need to prevent the construction of new buildings in the Green Belt unless they meet an exception.
36. Based on the totality of evidence presented, it has not been adequately demonstrated that there is an essential need for an agricultural workers dwelling at the appeal site, to support the existing or proposed suckler herd at MVF. Whilst consistency in decision making is important, my findings differ from those of the previous Inspector and those laid out in the Council's officer report, as they arise from the inconsistent evidence put to me both in written and oral form for this particular proposal.
37. The proposal would conflict with paragraph 84 of the Framework that requires an essential need to be demonstrated for a rural worker, to live permanently at or near their place of work. It would also conflict with Policy 48 of the CS.

### **Other Matters**

38. The parties do not raise any concerns regarding the financial viability of the existing enterprise as a whole. Based on all that I have seen and read, including representations from interested parties, I have no reason to take a different view.

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<sup>12</sup> Planning application references 18/05367/APD and 20/07499/APD.



39. The parties dispute whether the Council is able to provide a 5-year housing land supply. However, I have found that the proposal would harm the Green Belt. In respect of paragraph 11(d) (i) of the Framework, this is a situation where the presumption in favour of sustainable development is not engaged, because the application of the policies in the Framework that protect land designated as Green Belt provides a clear reason for refusing the development proposed<sup>13</sup>.
40. It has been suggested that the position and scale of the proposal represents a material improvement in relation to the effect on the openness of the Green Belt and the character and appearance of the area, to that which was previously refused and dismissed at appeal<sup>14</sup>. Be that as it may, I am required to assess the proposal before me and with which I have found harm for the reasons given.
41. The circumstances of the approval for an agricultural workers dwelling in the Green Belt at Greenacres Poultry Farm are not before me<sup>15</sup>. The essential need for an agricultural workers dwelling can present very special circumstances sufficient to outweigh harm to the Green Belt. However, given the inconclusive evidence presented by the appellant, I cannot make such a determination here.
42. The proposed scheme would provide a social benefit for the farm worker in reducing their commute. Economic benefits through the construction phase of the development and in meeting the needs of an existing rural business would also be realised. These matters attract moderate weight.
43. The appeal site is located within the buffer zone for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). As I am dismissing the appeal on other substantive grounds, I have not been required to consider further, whether the proposal would result in significant adverse effects upon the SAC.

### **Green Belt Balance and Conclusion**

44. The proposal would be inappropriate development in the Green Belt which would result in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
45. Given the substantial weight is to be attached to Green Belt harm, and modest harm has been identified to the character and appearance of the area, the harm is not clearly outweighed by the essential need for an agricultural workers dwelling and the moderate benefits cited in support of the proposal. On the evidence presented in this instance, the very special circumstances to justify the development have not been demonstrated.
46. Consequently, the proposal conflicts with the development plan and there are no material considerations including the approach within the Framework, which indicate that a decision should be made otherwise than in accordance with it. The appeal is dismissed.

*M Clowes* - INSPECTOR

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<sup>13</sup> Paragraph 11(d), footnote 7 of the Framework.

<sup>14</sup> Planning application reference PI/2021/11357 and appeal reference APP/Y3940/W/22/3294187.

<sup>15</sup> Planning application reference 20/04854/FUL, referred to at paragraph 5.28 of the appellant's appeal statement.

## **APPEARANCES**

### FOR THE APPELLANT:

Andrew Hillier	The Appellant
Mrs Hillier	The Appellant's Wife
Simon Chambers	LPC Trull Ltd
Tim Hector	Cooper and Tanner

### FOR THE LOCAL PLANNING AUTHORITY:

Steven Sims	Senior Planning Officer
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### FOR INTERESTED PARTIES:

Bella Walker	Chair of South Wraxall Parish Council
Johnny Kidney	Wiltshire Council





## Costs Decision

Hearing held on 7 May 2024

Site visit made on 7 May 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 May 2024**

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### **Costs application in relation to Appeal Ref: APP/Y3940/W/23/3327751 Meadow View Farm, Bradford Leigh BA15 2RW**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Andrew Hillier [Norbin Farm Ltd] for a partial award of costs against Wiltshire Council.
  - The Hearing was in connection with an appeal against the refusal of the Council to grant planning permission for the erection of agricultural worker's dwelling and associated works.
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### **Decision**

1. The application for an award of costs is refused.

### **The Submission for Mr Andrew Hillier**

2. An application for a partial award of costs was made in writing prior to the Hearing. The basis of the applicant's costs claim is that the Council has behaved unreasonably by not substantiating the first reason for refusal, and that the planning committee took a decision contrary to officer advice, when a consistency of decision was reasonable for the applicant to expect.

### **The Response by Wiltshire Council**

3. The Council's rebuttal was submitted in writing in advance of the Hearing. It suggests that the planning committee formed its own judgement in relation to the merits of the case, following consideration of the officer recommendation, interested party representations and responses to questions at the committee meeting. The Council considers that the committee is entitled to reach a different conclusion to officers.

### **Reasons**

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. It goes on to state that local planning authorities are at a risk of costs, if they behave unreasonably with respect to the procedural handling of the case and the substance of the matter under appeal.
6. The first reason for refusal set out on the Council's decision notice is clearly articulated and states the paragraphs of the National Planning Policy Framework that the proposal would be in conflict with. The Council's statement

of case explains the reason for refusal in more detail. Notwithstanding the officer recommendation, the apportionment of weight is a matter for the decision maker. The committee is not duty bound to follow the advice of its professional officers. It appears from the evidence before me including the Council's statement of case that the committee attached a different weight to the considerations, as is its right.

7. At the Hearing the applicant suggested that the Council's decision was made following erroneous comments of interested parties. In my decision I have found that the interested parties had legitimate concerns regarding the evidence of need for the proposed dwelling. However, the Council refused the application on the grounds that the harm to the openness of the Green Belt and the character and appearance of the area were not outweighed by the essential need for the dwelling, which is a different set of circumstances. On the evidence before me, I am satisfied that the Council substantiated the first reason for refusal. The applicant has not raised any concerns with regard to the second reason for refusal.
8. The proposal the subject of this appeal was wholly different in terms of site location, design and scale such that it was right that the planning committee considered it on its own merits, rather than inferring acceptability because it sought to address concerns raised during the consideration of a previous scheme<sup>1</sup>.
9. Even if the proposal was put forward following advice from a planning officer, the PPG is clear that pre-application advice cannot pre-empt the democratic decision-making process, or a particular outcome in respect of a formal application.
10. There is no compelling evidence before me to clearly demonstrate that the Council has behaved unreasonably with regard to either the procedural handling or substance of the appeal.

### **Conclusion**

11. I acknowledge the applicant's frustration with their perception of the Council's approach. However, insofar as is relevant to this costs application, based on all of the evidence before me, I find that no action or inaction taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense at appeal. A partial award of costs is not therefore justified.

*M Clowes*

INSPECTOR

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<sup>1</sup> Planning application reference PL/2021/11357 and appeal decision APP/Y3940/W/22/3294187.