
Appeal Decision

Hearing held on 30 November 2016

Site visit made on 30 November 2016

by B Bowker Mplan MRTPI

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

Decision date: 15 December 2016

Appeal Ref: APP/A2470/W/16/3152094

Cosy Dub Farm, Braunston Road, Brooke, Rutland LE15 8HW

- 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 Mrs Maria Goulding against the decision of Rutland County Council.
 - The application Ref 2015/0932/FUL, dated 15 October 2015, was refused by notice dated 10 December 2015.
 - The development proposed is described as 'construction of a permanent dwelling at Cosy Dub Farm to accommodate an agricultural worker'.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a permanent dwelling to accommodate an agricultural worker, at Cosy Dub Farm, Braunston Road, Rutland, Brooke LE15 8HW, in accordance with the terms of the application Ref 2015/0932/FUL, dated 15 October 2015, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether there is an essential need for a rural worker to live permanently at the appeal site in the countryside.

Reasons

3. The appeal site comprises an 'L' shaped agricultural holding of approximately 6 hectares located to the south of Braunston in Rutland. Planning permission was granted for a log cabin for a period of 3 years at appeal¹ and the log cabin remains on site. A permanent dwelling is proposed to replace the log cabin.
4. For planning purposes, the proposal is located in the open countryside as defined by Core Strategy (CS) Policy CS4. CS Policy CS4 seeks to limit development to that which has an essential need for a countryside location to support the rural economy. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to avoid isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work.
5. More detailed policy requirements are set out in Site Allocations and Policies Development Plan Document (SAP) Policy SP6, which at part 2 requires

¹ APP/A2470/A/09/2096081

- proposals for rural worker's dwellings to clearly demonstrate that: a) there is clearly an established functional need; b) the need relates to a full-time worker, or one solely or mainly employed locally in agriculture; c) the proposed dwelling is of a size commensurate with the financial capabilities of the enterprise, and d) the dwelling is sited within the main building complex. The area of dispute between the parties relate to SAP Policy SP6 parts 2a), b) and c). Further guidance on these matters is contained in Appendix 1 of the SAP.
6. A functional need for an agricultural worker to live at the site was accepted by the Inspector in the 2009 appeal. At the hearing, the Council contended that the Inspector reached this finding based on the temporary nature of the proposal and an onsite worker being required 'most of the time'. To understand the policy considerations in place at that time, I requested and was provided with a copy of Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7). The requirements of PPS7 Annex A are identical to those contained in Appendix 1 of the SAP. This includes the test for function need, with proposed temporary and permanent dwellings directed to the same functional test requirement at paragraph 4. It follows that as the functional test is the same as in 2009 and livestock numbers have increased, the need for a dwelling on site remains. In addition, as identified by the previous Inspector, properties in the nearby vicinity are unlikely to meet the functional need of the enterprise.
 7. The appellant is solely employed at the enterprise with an average working week of 39 hours, which does not take into account seasonal fluctuations, training and promotion work. However, the Council calculate that the holding generates a need for 0.68 of a full time worker. Based on the appellant's stated average working week, the holding would require 0.92 of a full time worker. This calibrated method of calculation is taken from the Farm Management Pocketbook² which since the 2009 appeal has been updated to take into account alpaca farming practice. It was put to me that this methodology has been accepted at other appeals involving alpacas. However, no specific cases have been brought to my attention.
 8. SAP Appendix 1 states that the scale and nature of the enterprise will be a relevant factor in considering employment requirements. In my view, the scale and labour intensive nature of the enterprise is likely to result in a labour requirement greater than the notional approach used by the Council. In addition, the appellant's evidence indicates that labour intensive farming is part of a wider agricultural trend towards high quality organic goods. Taking into account the above and the growth in livestock numbers since the 2009 appeal, I am satisfied the enterprise generates the need for a full time worker.
 9. Whilst the financial information does not take the form of an audited account, it is used for annual tax returns and I have no good reason before me to dispute its accuracy. The submitted financial information indicates that the enterprise has generated a profit each of the last three years. However, each of these yearly profits would become a loss if the Council's minimum wage cost (£22,831) for a full time worker is deducted. The appellant's figure of £17,130 is based on the Government's agricultural minimum wage for a grade two worker, and if applied results in the enterprise running at a loss for two of the last three years. I consider the appellant's figure to be more representative of

² Farm Management Pocketbook, 47th Edition, John Nix

the grade of work undertaken at the enterprise. Furthermore, the enterprise has endured to date assisted by the appellant's self-sufficient lifestyle, an aspect of rural enterprise anticipated by Appendix 1 of the SAP. This factor, alongside future agricultural revenue including from rare breed poultry would help cover the different annual mortgage and notional rent costs put forward by the parties.

10. Drawing matters together, the functional need for a permanent on site rural worker was established in the 2009 appeal. Since then, the enterprise has broadly grown as anticipated and the evidence points to it being financially sound and able to sustain a permanent dwelling. The Council raise no concern regarding the construction costs and size of the dwelling proposed. In considering whether there is a clear prospect of the business remaining, I must make a judgement on whether, on the balance of probabilities, there is a realistic possibility of the business failing. Based upon everything I have read and heard, I do not consider that this is likely.
11. Therefore, I conclude that there is an essential need for a rural worker to live permanently at the appeal site in the countryside. Consequently, the proposal would meet the requirements of CS Policy CS4, SAP Policy SP6 and paragraph 55 of the Framework. Combined, these policies seek to restrict development in the open countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Other matters

12. I note that Prior's Coppice and Rutland Water Nature Reserve, both SSSI's, are located 450 metres and 4.5 kilometres away from the site respectively. However, the Council confirmed at the hearing that they have no concern in this respect.
13. I also note concerns regarding precedent. However, each application and appeal must be determined on its individual merits. Moreover, this decision would not prevent the Council resisting proposals that cannot demonstrate essential need for a permanent dwelling.

Conditions

14. The conditions in the attached schedule are based on those put forward by the Council. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity in order to comply with advice given in the Planning Practice Guidance.
15. I have imposed a condition specifying the relevant drawings as this provides certainty. An agricultural occupancy condition is required to reflect the fact that an unrestricted dwelling would not otherwise be granted in this countryside location. A condition removing permitted development rights is necessary to ensure that the property remains affordable for an agricultural worker. A condition requiring details of roof materials is necessary in the interests of the character and appearance of the surrounding area.
16. Finally, owing to satisfactory access arrangements already in place at the site, the Council confirmed at the hearing that the Highway Authority's suggested conditions are not necessary.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Boundary and Land Ownership Plan, Block Plan, Ground Floor Plan, First Floor Plan, Elevation to the Farm, Elevation to the Existing Barn, Elevations (side elevations), Section through Proposed Dwelling.
- 3) The occupation of the dwelling shall be limited to a person solely or mainly working or last working, in the locality in agriculture (as defined in Section 336(1) of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person and to any resident dependants.
- 4) No work on the roof structure shall take place until samples of the roofing materials of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A to E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except with prior planning permission.

APPEARANCES

FOR THE APPELLANT:

Jenna Conway	Heaton Planning Ltd
Maria Goulding	Appellant
George Cook	The Andersons Centre

FOR THE LOCAL PLANNING AUTHORITY

Nick Hodgett Dip TP MRTPI	Principal Planning Officer, Rutland County Council
Andrew Coombe MRICS FAAV	Sanham Agricultural Planning Limited

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter from Councillor Mr M E Baines, submitted by the Council.
2. Report on Financial Sustainability of Cosy Dub Farm Updated November 2016, submitted by the appellant.
3. Appeal Decision Ref: APP/H1840/A/13/2209644 dated 13 May 2014 submitted by the appellant.
4. Properties for sale on Rightmove 29 November 2016, submitted by the Council.
5. Planning Policy Statement 7: Sustainable Development in Rural Areas 2004.