The Planning Inspectorate

Appeal Decision

Hearing held on 15 November 2016
Site visit made on 15 November 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 19 January 2017

Appeal Ref: APP/B1740/W/16/3152221
Maple Field Farm, Martin, Fordingbridge, Hampshire, SP6 3LR

- 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 Nicholas Snelgar against the decision of New Forest District Council.
- The application Ref 15/11447, dated 22 September 2015, was refused by notice dated 17 February 2016.
- The development proposed is described as: "To extend temporary residential permission to become permanent. To change the status of the on-site mobile home into permanent house (wooden)."

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant's description of the development refers to making a temporary residential permission permanent. This appears to be a reference to the temporary planning permission granted on appeal in 2012 (ref APP/B1740/A/12/2171974). However, there is no application under S73 or S73A concerning any of the conditions attached to that planning permission. Accordingly, it appears to me that an entirely distinct planning permission is now sought for the change the use of the land for the permanent siting of the mobile home for residential occupation, and it is on this basis that I have considered the appeal.

Application for Costs

3. An application for costs has been made by Mr Nicholas Snelgar against New Forest District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:

   - Whether there is an essential need for a rural worker to live permanently at Maple Field Farm such as to provide the very special circumstances necessary to justify the development, having regard to local and national policies which aim to avoid isolated homes in the countryside, and;

- Whether the development would conserve or enhance the natural beauty of the Cranbourne Chase Area of Outstanding Natural Beauty (AONB).

Reasons

Essential Need

5. As set out in Policy DM20 of the New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management (LP), in order to protect the countryside new housing development is tightly restricted. Policy DM21 sets out that new permanent dwellings will be allowed to support existing agricultural activities on well-established agricultural enterprises, providing certain criteria are met. These include where there is a clearly established functional need; that the need relates to a full-time worker or one who is primarily employed in agriculture; and that the activity concerned has been established for at least three years, having been profitable for at least one of them, and is currently financially sound with a clear prospect of remaining so.

6. The National Planning Policy Framework (the Framework) at paragraph 55 similarly 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. The aim of paragraph 55 is to promote sustainable development in rural areas. It replaces the detailed policy on agricultural dwellings which was previously provided in Annex A to Planning *Policy Statement 7: Sustainable Development in Rural Areas* which set out 'functional' and financial' tests similar to those in Policy DM21 above. Annex A no longer has any status as national planning policy. Nevertheless, when preparing their local plan it is for Councils to decide on any detailed policy criteria they consider appropriate to apply. The Council's development plan is up to date as it was adopted in 2014 having been found to be sound and consistent with the principles and policies in the Framework. I therefore attach due weight to the Council's development plan and as such I shall consider the proposal against the tests set out in Policy DM21 in order to establish whether an essential need, as required by the Framework, has been demonstrated.

7. The first part of Policy DM21 concerns whether there is a functional need which relates to a full time worker in agriculture. I have no doubt that altogether the activities carried out at Maple Field Farm, such as the milking of the appellant's current herd of cows, the milk processing, and the horticulture is more than enough to satisfy a full-time worker. However, a functional need to live on site must also be demonstrated.

8. It was established at the hearing that the appellant currently has 13 cows, with four more to be acquired next year, his aim being to eventually have a dairy herd of up to 25 cows. The milk from this herd is to be processed on site. At present the appellant's milk processing business is, however, supplemented by bought in milk. The appeal site is not large enough to provide a permanent home for either the existing or proposed herd and at the time of the hearing no pastureland adjacent to Maple Field Farm had been acquired. Consequently the cows are kept approximately 10 miles away at Riverbourn Community Farm. The intention is that cows will be brought to Maple Field Farm as and when for a short period of time prior to, and post calving, and it is this that the appellant contends creates a functional need to live permanently on the site in line with Policy DM21 of the LP.

9. Taking the appellant's best case scenario, it was agreed between the parties that a herd of 25 cows, with the supply of milk and therefore calving, being spread evenly over the year, would amount to approximately one calving every fortnight and that, generally speaking, around 50% of the time calving occurs in the day when someone can be on site to attend. Therefore night-time calving would occur approximately once a month.

10. It was also agreed between the parties that cows display signs of being close to calving, such as 'bagging up', where their udder fills with milk. Therefore, if it appeared likely that a cow might calve over-night, which, based on the above, would be once a month, a suitable person could stay on at Maple Field Farm to oversee this. It would not, in my opinion, be out of the question for the business to function on this basis; and even less so for a herd of just 13 cows, which is the current state of play. Therefore I do not consider that the number of cows likely to calve overnight is sufficient to demonstrate a functional need.

11. I also note that the appellant has recently acquired seven piglets which he intends to fatten and sell, and 60, 10 week old chickens. Whilst I understand that day old chicks are reliant on electrically powered heat lamps, from the evidence before me, this is neither a well-established or fundamental part of the business, which is largely focused on the creation of a micro dairy. The small scale of this activity and the lack of any clear evidence that it will continue in the longer term limits the weight I can afford this.

12. In light of my findings above I therefore consider that a functional need for the appellant to live permanently on site in order to satisfy Policy DM21 of the LP has not been demonstrated.

13. I turn now to the financial test set out in Policy DM21 of the LP. The figures provided in relation to the appellant's current milk processing business are largely based on milk bought in rather than milk from the appellant's own dairy herd. Milk from the appellant's own herd is likely to provide a less reliable supply given the smaller size of herd, than, for example, buying in milk from a much larger producer. There would also be additional costs for the appellant in maintaining his own herd such as insemination, vets bills, feed, land, and so on. Nevertheless, the figures have improved year-on-year and the year-to-date is currently running at a profit due to the addition of cream sales which previously suffered a serious setback. Overall, this indicates that a micro dairy with a herd of up to 25 cows might form a viable business.

14. The appellant has provided a copy of an agreement allowing his herd of cows to be kept at Riverbourn Community Farm. However, this contains no clauses or terms and the land in question is not identified. That being said, the concept of the appellant's business is that of a mobile dairy business which can be set up without ownership of large areas of land, hence the appellant's development of a mobile milking bail.

15. Whilst there are areas of concern in respect of the long-term viability of the proposed business as outlined above, a market has, however, been established and the figures indicate it may have the potential to form a viable micro dairy. Nevertheless, my findings on these matters do not alter my conclusion that the appellant has not demonstrated a functional need which relates to a full-time worker to live on the site, either with his current dairy herd, or that proposed, and as such it fails to meet the requirements of Policy DM21 of the LP. It follows therefore that the appellant has not demonstrated an essential need for

a rural worker to live permanently at Maple Field Farm in line with the requirements of the Framework at paragraph 55. Consequently, the proposal runs counter to the aim of promoting sustainable development in rural areas, as outlined in paragraph 55 of The Framework.

16. In coming to the above conclusions on the first main issue I have taken into account the planning history of the site. The matter of whether there was a need for an agricultural worker to live at Maple Field Farm was considered in 2011 under appeal decision APP/B1740/A/10/2142506. Here the Inspector found that a herd of 20 cows would be on the margins of warranting an on-site presence. However, this was based on the cows being kept at or in very close proximity to Maple Field Farm with the intention to rent adjacent fields. The proposal before me now, where only the calving is carried out on site, is therefore materially different and far less intensive in terms of the need for a permanent on-site presence to provide around-the-clock security, and care and assistance to a dairy herd of 20 cows.

17. The above appeal decision also points out that the lack of land or cows at the end of any temporary period would indicate a lack of success in setting up the intended operation. Whilst I appreciate these things take time to put in place, and note the appellant's work in establishing a market in the area, he has, nevertheless, clearly struggled to secure land adjacent to Maple Field Farm or to acquire the size of dairy herd envisaged within this time.

18. Although the above appeal was dismissed the appellant was subsequently granted a temporary three year permission at appeal (ref APP/B1740/A/12/2171974). I note the appellant wanted a five year temporary permission, but a letter from the Planning Inspectorate dated 17 December 2012 sets out the reasons for granting only three years. Nevertheless, even if the appellant were now given the additional time initially sought to continue to establish his business, or granted a further temporary permission, I do not consider that my concern in respect of essential need could be overcome in this time.

19. I also note appeal decision APP/Y9507/W/15/3002893 at a site in West Sussex where the main issue in dispute was the financial test. The findings in respect of the financial test in that case were considered to be premature in that the business had not yet fully developed. Consequently, the inspector found that a temporary permission would have been a reasonable option in that case. However, given that my concerns above relate, in the main, to a lack of a functional and therefore essential need, rather than meeting a financial test, that decision does not alter my conclusion in respect of the first main issue.

Character and Appearance

20. The appeal site is located in a high quality rural landscape as recognised by its designation as an AONB. As set out in the Framework great weight should be given to conserving landscape and scenic beauty in AONBs.

21. The residential structure is long and narrow, single storey, and of timber frame construction. It sits in close proximity to an existing single storey timber building which comprises the milk processing unit and offices. From the highway to the front the structure is well screened by mature trees and a thick hedgerow. Glimpses are, however, possible, particularly during the winter months. Nevertheless, when viewed in the context of the other single storey

timber building on site and the poly-tunnels it does not appear out of place, appearing more of an agricultural type building than a traditionally styled dwelling.

22. For these reasons I find no harm to the character or appearance of the countryside and conclude that the development would conserve the natural beauty of the Cranbourne Chase AONB. As such, I find no conflict with Policies CS2 and CS10 of the Core Strategy (2009), and Policy DM20 of the LP. These policies, broadly speaking, aim to protect the rural character of the countryside.

Conclusion

23. As outlined above I have found no harm to the character or appearance of the countryside or AONB. However, it has not been demonstrated that there is an essential need for the appellant to live permanently at Maple Field Farm, either now or in the immediate future. Whilst I recognise that if the appeal is not allowed it would result in disruption to the appellant's home and family life, this must be balanced against the rights of others and the public interest. In my judgement withholding planning permission is a proportionate response to the harm I have identified and I do not consider that the effect on the appellant and his family would outweigh the harm caused by the permanent siting of the mobile home in the countryside and the conflict with local and national policy. Furthermore, it has not been demonstrated that the business would cease as a direct result of a refusal of planning permission, as, based on my findings above, it could be adequately run without the need for a permanent on-site presence.

24. For the reasons set out above I conclude that that the appeal should be dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Nicholas Snelgar	Appellant
Marc Willis	Willis Plan
Peter Williams	Reading Agricultural Consultants
Mary Snelgar	Appellant's wife
Tessa Snelgar	Appellant's daughter
Edward Snelgar	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY

Nicholas Straw	New Forest District Council
Robert Fox	Fox Rural Planning and Land Management
Nick Whittington	New Forest District Council

INTERESTED PARTIES

S Valentine	Resident of Martin
Janet Richards	Resident of Martin
Susan Sampson	Parish Council/Resident of Martin
Mark Farmer	Resident of Martin
K Greig	Resident of Martin
N Lock	Resident of Martin
K Atkinson	Resident of Martin
N Adams	Resident of Martin
V Letcher	Resident of Martin
Roy Mollet	Resident of Martin
Sarah Willis	Resident of Chippenham
Richard Ashton	Resident of Winbourne St Giles
Felicity Ashton	Resident of Wimbourne St Giles
Ian Sutton	Resident of Bowenchalke

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter of notification confirming the date, time and location of hearing
2. Letter in support from Simon Martin of Nunton Farm
3. Closing statement by Nicholas Straw, New Forest District Council