The Planning Inspectorate

Appeal Decision

Hearing held on 14 February 2017

Site visit made on 14 February 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 27 February 2017

Appeal Ref: APP/J9497/W/16/3155319
Marley Farm, South Brent, Devon TQ10 9JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs B. A. Palk against the decision of Dartmoor National Park Authority.
- The application Ref 0070/16, dated 26 January 2016, was refused by notice dated 3 May 2016.
- The application sought planning permission for "erection of agricultural worker's dwelling, Marley Farm, South Brent" without complying with a condition attached to planning permission Ref 0449/02, dated 2 August 2002.
- The condition in dispute is No 4 which states that: "The occupation of both the dwelling hereby permitted and the existing farmhouse on the holding shall be occupied only by persons employed or last employed full time locally in agriculture or forestry work as defined by Section 336 of the Town and Country Planning Act 1990, and the dependents of such a person residing with him or her, or a widow or widower of such a person".
- The reason given for the condition is: "The erection of a further dwelling on the farm holding is only justified on the basis of the specific requirements of the holding in accordance with Policy HS2 of the Dartmoor National Park Local Plan".

Decision

1. The appeal is dismissed.

Procedural Matter

2. The disputed condition restricts the occupancy of the dwelling approved under application Ref 0449/02 (the new dwelling), and also a farmhouse which already existed on the holding (the farmhouse). The appeal seeks to vary the disputed condition in order that the farmhouse can continue to be occupied by persons other than those employed or last employed full-time locally in agriculture or forestry. I have dealt with the appeal on this basis.

Background and Main Issue

3. The main issue is whether the condition is reasonable and necessary, in particular, whether it has been demonstrated that demand by applicable persons for that type of accommodation no longer applies, and the effect that varying the condition would have on the countryside of the Dartmoor National Park.

Reasons

4. Marley Farm comprises a detached farmhouse, dating from the mid-19th Century, and a range of agricultural buildings grouped around a farmyard. The farmyard lies adjacent to the A38 and is located in the open countryside, within the Dartmoor National Park. The farm holding extends to 300 acres and supports a stock of 189 cattle.

5. The appellant and her husband manage and run the farm, and an agricultural contracting business, with the help of a part-time farm worker who lives locally. The appellant resides in the new dwelling, built pursuant to application Ref 0449/02 (the 2002 permission), which is located on the access road to the south-west of the farmyard.

6. The appellant advised that changes in farming over the years resulted in a smaller farming operation than that which existed in 2002. At that time there was a need for an additional dwelling to house a full-time agricultural worker. However, as the farm now supports fewer cattle, and the appellant's personal circumstances have changed, there is no longer a need for a separate dwelling to accommodate a full-time farm worker.

7. Policy DMD26 of the Development Management Document[1] relates to the removal of agricultural occupancy conditions. The policy requires evidence that the demand by applicable persons for that type of accommodation no longer applies and that the dwelling has been offered for sale, rent or lease for a period of at least 12 months at a price that realistically reflects the existence of the condition.

8. The Authority explained that the purpose of the policy is to ensure that there is a supply of suitable accommodation for rural workers. This is to avoid pressure for new dwellings in the countryside. Furthermore, the farm lies within the National Park which has the highest status of protection in relation to landscape and scenic beauty. The policy seeks to avoid a proliferation of new isolated dwellings, which would be harmful to the character and appearance of the National Park and in conflict with its primary statutory purpose, which is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.

9. The farmhouse is reported to have been offered for rent at a market rate since July 2011 and it has been occupied by various tenants since that date. The appellant advised that enquires have been made in the local area and there is no demand from a qualifying tenant. The appellant considered the farmhouse to be too large to be attractive to tenants who would meet the occupancy restriction. Also, the rent, even at a discounted rate, would be unaffordable for a farmworker. However, there is no substantive evidence before me that the dwelling has been offered for rent at a price that reflects the occupancy restriction. Consequently, removing or varying the condition without this evidence would be in conflict with Policy DMD26.

10. The appellant argued that the effect of complying with the condition is that the farmhouse would be unoccupied. The farmhouse is in need of maintenance which the rent would help to fund. The appellant further argued that the loss of rental income would significantly affect the viability of the enterprise and it

[1] Dartmoor National Park Authority Development Management and Delivery Development Plan Document (2013)

would be likely to lead to the holding having to be split up and sold. The appellant suggested that allowing the farmhouse to be rented at market rate would enable investment in the business, whilst also retaining the farmhouse should it be needed for a rural worker in the future. I appreciate that the appellant has no current plans to sell the farmhouse, however, circumstances could change. If the farmhouse were to be released from the occupancy restriction, there would be no control over its occupation and it would be lost from the stock of houses for rural workers in the locality.

11. The appellant was also concerned that the continued application of the occupancy restriction on the dwelling that existed prior to the 2002 permission is overly restrictive in the light of current planning policy. Policy DMD23 of the Development Management Document seeks to restrict new residential development in the countryside to a narrow set of circumstances and, in this respect, it is consistent with the National Planning Policy Framework.

12. The Authority explained that if an additional rural workers dwelling were to be justified under current policy it would still be necessary to ensure that both dwellings remained available to meet the identified need, and to protect against the risk of further pressure for new dwellings in the National Park. The Authority referred to a Court ruling,[2] which found that the imposition of an occupancy restriction on an original farmhouse could be justified. I consider, therefore, that such a condition would be necessary under current policy.

13. I appreciate that circumstances have changed at Marley Farm, and there is no longer a need for an additional full-time farm worker to be readily available at most times. However, the condition does not restrict occupancy to a person actively working at Marley Farm but includes persons employed or last employed full-time locally in agriculture or forestry work or a widow or widower of such a person. There is insufficient evidence to demonstrate that there is no demand locally from a person meeting the required criteria. Also, it is not certain that local demand for the dwelling would not arise in the future.

14. I conclude that the condition is reasonable and necessary. It has not been demonstrated that demand by applicable persons for that type of accommodation no longer applies. Therefore, any future need would lead to pressure for new development which would have an adverse effect on the countryside of the Dartmoor National Park. Consequently, the proposal would be contrary to Policy DMD26 of the Development Management Document and it would be in conflict with the statutory purposes of the National Park designation. I have taken into account the other considerations put forward by the appellant but these do not outweigh the need to conserve the landscape and scenic beauty of the National Park, to which I attach great weight.

15. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector

[2] HC/282 Macklin v Secretary of State for the Environment & Basingstoke & Deane Borough Council, 1995

APPEARANCES

FOR THE APPELLANT:

Barbara Palk	Appellant
Michael Manning	Rendells

FOR THE LOCAL PLANNING AUTHORITY:

Louise Barattini	Dartmoor National Park Authority

DOCUMENTS SUBMITTED AT THE HEARING

1 Policy DMD23 of the Dartmoor National Park Authority Development Management and Delivery Plan Document Adopted Version July 2013