
Appeal Decision

Hearing held on 13 June 2017

Site visit made on 13 June 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 6th July 2017

Appeal Ref: APP/P2935/W/17/3169553

Smalldene View, Harrogate Lane, Longframlington NE65 8EE

(Grid Ref Easting: 413922, Grid Ref Northing: 602059)

- 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 Grant Shields against the decision of Northumberland County Council.
 - The application Ref 16/02325/FUL, dated 4 July 2016, was refused by notice dated 3 February 2017.
 - The development proposed is a farm workers dwelling, detached garage/workshop and solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for a farm workers dwelling, detached garage/workshop and solar panels at Smalldene View, Harrogate Lane, Longframlington NE65 8EE (Grid Ref Easting: 413922, Grid Ref Northing: 602059) in accordance with the terms of the application, Ref 16/02325/FUL, dated 4 July 2016, subject to the conditions set out in the Schedule to this Decision.

Application for Costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council's decision relates to revised plans submitted during the application process which reduced the scale of the proposed dwelling. I have considered the appeal on the basis of the revised plans as no party would be prejudiced or caused any injustice by me taking this course of action.
4. In addition to the development plan policies referred to in the Statement of Common Ground, at the Hearing both parties agreed that emerging Policy S3 of the Northumberland Local Plan and Core Strategy Pre-Submission Draft (the eLP) is relevant to the appeal proposal.

Background and Main Issue

5. It is common ground between the parties that the site is located in the open countryside, that there is an essential need for a rural worker to live on site in the interests of the proper functioning of the enterprise and that the enterprise

is economically viable and has a clear prospect of remaining so. Differences arise over whether the proposed development is of a scale commensurate with the essential need of the business.

6. The main issue is therefore whether the scale of the proposed development would be appropriate, having regard to the essential need for a dwelling on the appeal site to accommodate a rural worker.

Reasons

7. The appellant owns 22ha of land at Smalldene View and rents additional land in the area. Due to changes in the area and distribution of some rented elements of land, the overall size of the holding has reduced since the application was made. However, the focus of the enterprise on the owned landholdings at Smalldene View, where the recently erected sheds are used for lambing, calving and housing the cattle over winter, has not altered.
8. At the Hearing the Council agreed that rebuild costs for insurance purposes set out in the independent surveyor's report prepared for the Council would be likely to be higher than the new build costs of a dwelling. Following discussion, the Council accepted the self-build costs submitted by the appellant, which are based on industry standards, were an appropriate basis upon which to estimate the cost of development. There is no evidence before me to demonstrate that the enterprise cannot afford to build the proposed development. Moreover, both the Council and appellant have referred to recent case law¹ which held that the guidance in paragraph 55 of the Framework is significantly less onerous than that in the now cancelled Planning Policy Statement 7, and does not require that the proposal is economically viable but simply requires a judgment of whether the agricultural enterprise 'has an essential need for a worker to be there or near there'.
9. Both parties agreed at the Hearing that local and national policy does not include any criteria which explicitly limit the scale of dwellings for rural workers. During the application process, the appellant reduced the floor area of the proposed dwelling to 229sqm in response to correspondence in which the Council indicated that a dwelling with a total floor area of 230sqm would be acceptable. The proposed dwelling as shown on the revised plans would not be unusually large for a rural worker and their family. The development of a dwelling could reasonably be expected to include a domestic garage. During discussion at the Hearing, the Council agreed that the solar array would accord with policy and would therefore be considered acceptable; based upon the evidence before me I have no reason to take a different view. The Council has not identified any harm that would arise from the scale of the proposed development in relation to the essential need of the business or to matters such as the character and appearance of the area.
10. In respect of the main issue, I therefore conclude that the scale of the proposed development would be appropriate, having regard to the essential need for a dwelling on the appeal site to accommodate a rural worker. As such, it would accord with Core Strategy Policies S14 and S3, Policies 3 and 8 of the eLP and paragraph 55 of the Framework.

¹ The Queen on the application of Embleton Parish Council, David Ainsley v Northumberland County Council v Ivor Gaston [2013] EWHC 3631 (Admin).

Other matters

11. The occupants of a neighbouring residential property have raised concerns relating to other matters including the water supply, noise levels from any back-up generators and the use of the existing sheds at Smalldene View. There is no evidence before me that the proposed development could not be provided with an adequate water supply or that it would have a harmful effect on water pressure. Based upon the submitted details, any back-up generator would be housed within the proposed detached garage some considerable distance from the neighbouring residential property and would therefore be unlikely to give rise to noise disturbance. At the Hearing the appellant confirmed there would be no change to the existing use of the sheds.

Conditions

12. I have considered the suggested conditions against the tests set out within paragraph 206 of the Framework and advice provided by the Planning Practice Guidance (the PPG), and have amended them where necessary in order to meet these tests.
13. I have imposed a condition specifying the relevant drawings in the interests of certainty. In order to ensure the suitable appearance of the development, I have imposed a condition relating to materials. A condition relating to car parking is necessary in the interests of highway safety.
14. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG advises that such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances. Both parties suggested a condition which would restrict all permitted development rights under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015. At the Hearing, it was agreed that such a condition would be overly restrictive and would not pass the test of necessity, but that it was reasonable and necessary to control the size of the development. Therefore, to ensure the dwelling will remain an appropriate size for a rural worker's dwelling and to safeguard the character and appearance of the area, I have imposed a condition restricting permitted development rights in relation to extensions and curtilage buildings.
15. Permission for an unrestricted dwelling would conflict with development plan policy and paragraph 55 of the Framework. I have therefore imposed a condition relating to the occupancy of the dwelling in order to ensure that it remains available to meet the essential need for a rural worker to live permanently at or near their place of work.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

CL Humphrey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Miss Nicola Allan BA (Hons) Dip Law MRTPI

Trinity Chambers

Mr Grant Shields

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ragu Sittambalam

Planning Officer

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:
 - Site Location Plan (Ordnance Survey 1:2500)
 - Drawing No. N/6/6/2 Garage Workshop & Site Plan (May 2016)
 - Drawing No. N/6/6/2 General Arrangement (January 2017)
- 3) Notwithstanding the approved plans, prior to the commencement of any superstructure works on site, details and samples of the materials to be used in the construction of the external walls and roof of the dwelling and detached garage/workshop hereby permitted and of any boundary treatments shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter retained in accordance with the approved details and samples.
- 4) The development hereby permitted shall not be occupied until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been hard surfaced, sealed and marked out in parking bays. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension to or building within the curtilage of the dwelling hereby permitted, other than those expressly authorised by this permission, shall be erected.
- 6) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

END OF SCHEDULE OF CONDITIONS