



Appeal Decision

Hearing held on 28 June 2017

Site visit made on 28 June 2017

by C J Ball DArch DCons RIBA IHBC

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

Decision date: 10 July 2017

Appeal Ref: APP/X1118/W/17/3168893

Seven Ash Wood Farm, Combe Martin EX34 0PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Marie Oram against North Devon District Council.
 - The application Ref 61891 is dated 12 August 2016 and was registered on 16 November 2016.
 - The application sought planning permission to vary a condition attached to planning permission Ref 58038 dated 23 October 2014 for the *variation of condition 2 (temporary consent) attached to planning permission 52894 to either (A) temporary planning permission up to 13 June 2016 or (B) permanent planning consent personal to the applicants (amended description)* to allow for permanent residential use.
 - The condition in dispute is No.1 which states that: *The residential use hereby permitted on the application site shall be discontinued on or before 13 June 2016.*
 - The reason given for the condition is: *To reflect the temporary nature of the permission and to enable the applicant and the local planning authority to re-assess the need for an agricultural dwelling in relation to the operations on the farm holding so as to maintain long term control over development in the countryside.*
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Decision

1. The appeal is allowed and the planning permission Ref 58038 for the variation of condition 2 (temporary consent) attached to planning permission 52894 to either (A) temporary planning permission up to 13 June 2016 or (B) permanent planning consent personal to the applicant (amended description) at Seven Ash Wood Farm, Combe Martin EX34 0PB granted on 23 October 2014 by North Devon District Council, is varied by deleting conditions 1 and 2 and substituting for them the following conditions:
 - 1) The occupation of the mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The permanent residential use of the mobile home hereby permitted shall be carried on only by Marie Oram.
 - 3) When the mobile home ceases to be occupied by Marie Oram, the use hereby permitted shall cease and the mobile home and all materials and equipment brought on to the site in connection with the use shall be removed from the site.

- 4) 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 development within Class A, Class B and Class C of Part 1 Schedule 2 of the Order shall be carried out without express planning permission.

Preliminary matters

2. Planning permission ref 52894 granted permission on 12 June 2013 for a temporary agricultural worker's dwelling (change of use of caravan from incidental to agriculture to temporary residential). Condition 2 of that permission required the siting of the temporary accommodation permitted to be discontinued and the land restored to agricultural use, including removal of the temporary dwelling, on or before 31 December 2014. That condition was varied by permission ref 58038 to require the discontinuance of the residential use on or before 13 June 2016 and the further variation of that condition is now the subject of this appeal.

Main issue

3. Whether the variation of a condition to allow the permanent residential use of the existing caravan on the site is reasonable and necessary to the farm enterprise.

Planning policy background

4. The local development plan is the North Devon Local Plan, adopted in 2006. The most relevant policy in this case is policy HSG9 'Permanent dwellings in the countryside' which sets out the criteria to be met by such proposals, including functional and financial tests. The Council also adopted supplementary planning guidance (SPG) on 'Agricultural, Forestry and Other Essential Occupational Dwellings' in 2008 which sets out the test requirements in more detail. Both policy and SPG are based on national policy guidance (PPG7, then PPS7) which was superseded by the National Planning Policy Framework in 2012.
5. The Framework, while retaining the requirement to demonstrate an essential need for rural workers to live permanently at their place of work in the countryside, did not bring forward the specific functional and financial tests. Thus, while there must clearly be sufficient justification in those terms, both policy and SPG are not fully consistent with the Framework so, in accordance with Framework 215, do not carry full weight.
6. The site lies close to the western edge of Exmoor National Park and within the North Devon Area of Outstanding Natural Beauty (AONB), Heritage Coast and Coastal Preservation Area. The Council confirms that, subject to sufficient justification for an agricultural dwelling, there are no overriding objections in relation to the location of the site in these protected designated landscape areas.

Reasons

7. The 9.74 acre (3.94 Ha) site, owned by the appellant, lies in the countryside some 3 miles south-east of Combe Martin. A large barn and the mobile home are located on a small secluded plateau on the steep hillside below the A399. An acceptable highway access is in place. The appellant also rents 35 acres (14.16 Ha) of land in 5 fields at Guys Cliffe Farm, 2 miles away. The farm enterprise consists primarily of the breeding of pedigree Poll Dorset sheep and the breeding of organic free range turkeys and chicken. The appellant is the only worker on

- the farm, contracting in additional help as and when necessary. The proposal entails the permanent residential use by her of the existing mobile home. There is no proposal for a permanent 'bricks and mortar' dwelling on the site.
8. The reasoning behind both the original and the replacement conditions was to allow the appellant a trial period to demonstrate that her farming operation is a fully functional and viable agricultural enterprise that requires a full-time presence on site. The Council accepts that there is a functional need for a permanent resident worker on site and leans towards supporting the proposal. However, on the basis of the limited financial evidence available, it questions whether the enterprise has a viable future.
 9. The figures provided by the appellant for the first 3 years show that, in 2012 and 2013, the business grew rapidly. In 2012 a gross income of £18,347 left a net margin of £6,201 and in 2013 a gross income of £33,017 left a net margin of £20,705. In 2014 income dropped to £5,474, with a net margin of £1,332. This was explained by the appellant keeping all the lambs bred that year in order to increase the flock. She considered that the profitability of the venture had been proven in the first 2 years, starting from low stock levels, and took the opportunity to build up the flock for the future. The latest figures for 2015 show that gross income was £8,076, with a net margin of £2,702. This was explained by further stock retention, a change in the appellant's personal circumstances, taking on the lease of the additional land and the impact of bird flu restrictions.
 10. None of these figures has been independently verified, although they seem realistic to me and, like the Council, I have no reason to doubt their accuracy. On the face of it they show that the holding has been established for at least 3 years and has been profitable for at least one of them, meeting a key requirement of policy HSG9. Nonetheless, the very low level of income available to the appellant over the latter 2 years, indicating low-level subsistence farming, gives rise to concerns about the long term future of the holding.
 11. The appellant explained that she does not need a high income. She has very limited domestic expenses, with no rent or mortgage payments and, since the holding is entirely off-grid, no utilities bills. She provides much of her food herself and there is a healthy local bartering economy. She has a number of bee hives and sells the honey. She supplements her farm income by occasional consultancy work and agricultural work on other farms.
 12. Living frugally, the appellant prudently used the trial period to build up the flock of Poll Dorsets from the initial breeding flock of 8 sheep to the current flock of 68 rams, ewes and lambs. The appellant expects the return on that reinvestment in the flock to start to be realised over the years 2016-2017. The early years' performance clearly shows the potential for good levels of profitability in breeding Poll Dorset sheep. The sale of eggs and chicken meat provides a regular income and I heard that the appellant, as she does every year, intends shortly to augment the current flock of 22 turkeys to 120+ to meet the seasonal demand. She has an established customer base with advance orders for high value organic turkeys. All meat is sold direct to local customers, maximising profit. She makes efficient use of the barn, alternating lambing in the spring with poultry rearing in the autumn, and has a cost-effective per head/usage lease arrangement on the additional land.
 13. The appellant has not only survived 2 lean years but being prepared to accept a low income level over this period has also enabled her to substantially increase

her stock levels with the future in mind. To me that shows a clear long-term commitment to the venture. She has invested her time and expertise wisely and runs the enterprise efficiently. I consider that all this clearly demonstrates her intention and ability to develop the business, with the reasonable expectation that profit levels will rise in the near future. There is the potential for a financially sound business, providing a reasonable income for the appellant, and a clear prospect of it remaining so as required by policy HSG9.

14. Nonetheless, there are no details of the business finances since 2015 available and doubts about the current financial standing of the business must remain, representing a risk to its progress. To address this risk the appellant suggests a personal permission so that, if the venture does fail, there is no legacy of harm to the countryside through an unwarranted permanent dwelling. No built dwelling is proposed and residential use of the caravan would cease when Ms Oram's occupation ceases.
15. In the particular circumstances of this case, where the success of the enterprise depends entirely on Ms Oram's specific expertise in Poll Dorset breeding, her own management abilities and her own labour, I consider that to be a sensible and appropriate safeguard. The specialist nature of her enterprise on this small landholding represents exceptional circumstances that would not readily be replicated by another occupier. The functional need for a permanent resident worker on the site has been proven. I consider that there are sufficient indications that, in Ms Oram's hands, the business has a viable future and that the permanent residential use by Ms Oram of the existing caravan on the site is reasonable and necessary to her particular agricultural enterprise.
16. I therefore find sufficient justification to vary condition 1, which restricts residential use of the caravan to temporary usage, replacing it by conditions restricting the permanent residential use of the caravan to Ms Oram. That would reflect the specific reliance of the venture on her expertise and the fact that, without such justification, the permanent residential use of the caravan would represent inappropriate development in the protected landscape.
17. Condition 2 of permission 58038, which limits occupation to an agricultural worker, also needs to be amended to reflect the change from temporary to permanent residential use. The site lies in a sensitive landscape area so, to ensure that the size of the dwelling continues to relate to the functional requirement of the enterprise and to ensure that the impact on the valued landscape is minimised, a further condition is necessary to withdraw permitted development rights for extension and enlargement.
18. On that basis, in the terms of Framework 55, I consider that there is an essential need for Ms Oram to live permanently at her place of work at Seven Ash Wood Farm, providing the special circumstances necessary to justify an isolated dwelling in the countryside. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting others.

Colin Ball

Inspector

APPEARANCES

FOR THE APPELLANT:

John Gower	Agent, Quiet Waters Consultancy
Marie Oram	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mary Pool	Strategic Development and Planning, North Devon Council.
Graham Townsend	Strategic Development and Planning, North Devon Council.