
Appeal Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 8 August 2017

Appeal Ref: APP/Q1153/W/16/3159610

**Meadow View Farm, Road from Beare Farm to Farthingland Cross,
Exbourne, Devon EX20 3SH**

- 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.
 - The appeal is made by Mr Jason Carvil against West Devon Borough Council.
 - The application Ref 0336/16/FUL, is dated 3 February 2016.
 - The development proposed is rural workers live/work unit of accommodation.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jason Carvil against West Devon Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The Council did not determine the application. However, it advises that had it been in a position to do so it would have refused planning permission on the grounds that there is no proven need for a permanent residential unit of accommodation within the holding.

Main Issue

4. The proposal is to extend an existing barn to provide a self-contained unit of accommodation for a rural worker together with additional workspace for the farm. The main issue in this case is whether it is appropriate to provide the living space within a permanent structure, and if so, whether the necessary mechanisms are in place to control occupancy.

Reasons

5. Meadow View Farm is an established mixed venture agro/horticultural enterprise located in an isolated position within open countryside. The farm has a number of core activities which include the keeping of pigs, poultry and specialist rare breed sheep. There is also a horticultural element to the business which takes place from a polytunnel on the site.
 6. I am told that the business has been trading for approximately 4 years and that it provides what is described by the appellant as a stable and sustainable
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income. No details of financial performance have been provided but I note from the Council's agricultural consultant report that the business turned losses in the 2013/14 and 2014/15 financial years. It is unclear, based on the limited information before me, as to whether this situation has improved. However, it is apparent that the enterprise is still in its infancy with significant parts of the business plan yet to be implemented. The appellant and his wife appear committed to developing the farm into a full-scale agricultural/horticultural operation.

7. Strategic Policy 5 of the West Devon Core Strategy (2011) (WDCS) states that development in the countryside will be strictly controlled and housing only permitted where there is a clear essential agricultural, horticultural or forestry need. This is consistent with paragraph 55 of the National Planning Policy Framework (the Framework) which seeks to avoid new isolated homes in the countryside unless there are special circumstances. It also reflects advice in paragraph 17 of the Framework that planning should recognise the intrinsic character and beauty of the countryside.
8. Saved Policies H31 and H32 of the West Devon Borough Local Plan Review (2005) (LPR) set out the detailed criteria relevant to agricultural worker dwellings. These policies are based around now superseded government guidance contained within PPS7¹ which advocated the use of functional and financial tests. Current Government policy is less prescriptive, but the principle enshrined within PPS7 to resist permanent dwellings within the countryside until it can be established that a new or expanding enterprise will be sustained in the long term still holds when applying Framework policy. In this respect saved Policies H31 and H32 remain broadly consistent with the Framework.
9. I agree with the Council's agricultural consultant that a worker's dwelling would not be justified on basis of the current activity at the Meadow Farm. However, should the proposals set out within the planning supporting statement come about, there would be an essential need for a worker to be resident full-time on the holding. Notwithstanding the question marks over the profitability of the business, there is sufficient evidence to support the case for a temporary dwelling whilst the long term sustainability of the enterprise is proven.
10. The appellant does not object to a trial period and has submitted a unilateral undertaking to secure a cessation of the residential use of the building and the removal of all associated domestic paraphernalia on the expiry of 3 years from the date of any planning permission unless a further planning permission is granted. I have some concerns about the detailed wording of the planning obligation which lacks precision in relation to the *permanent* cessation of the residential use and the nature of any planning permission required to authorise its continuation.
11. It is put to me that a planning condition would be acceptable in any event. Suggested wording has not been put forward and therefore I cannot ascertain whether such a condition would meet the tests listed in paragraph 206 of the Framework. Nonetheless, I consider that a planning obligation would be the most appropriate method of achieving the relevant planning objectives in this particular case. In its current form the submitted undertaking would not be sufficiently enforceable.

¹ Planning Policy Statement 7: Sustainable Development in Rural Areas (2004)

12. Regardless, neither mechanism would address the Council's core concern that, in the event of the enterprise failing to attain long term viability, the proposal would lead to an unnecessary building in the countryside. Notwithstanding the appellant's contention that the living accommodation could usefully revert to an incidental use on the holding, there is no compelling evidence to persuade me that it would be suitable for agricultural purposes or that it would be required on the unit. Given that saved Policy ED18 of the LPR requires new agricultural buildings to be of an appropriate size for their proposed function (and hence justified by that proposed function) this weighs heavily against the proposal.
13. Paragraph 4.109 of the supporting text to Policy H31 states that in cases such as this, where an enterprise is new or an existing holding is expanding, it will be the Council's normal practice to allow temporary accommodation e.g. a caravan or mobile home, for a maximum of 3 years. Whilst this pre-dates the more general advice in the Framework it is nevertheless a sensible starting point.
14. I have given considerable weight to the fact that the appellant's wife is a wheelchair user. Any future residential accommodation on the farm will need to be accessible for a wheelchair. However, such accommodation could be provided in a mobile home or demountable structure such as a log cabin. There is no clear or convincing justification for a permanent structure.
15. That the development would be closely related to existing farm buildings and designed to replicate, fenestration aside, the barn to which it would be attached does not persuade me otherwise. Other forms of accommodation, if sensitively sited, would potentially have lesser visual impact. Moreover, workspace for food processing and administration could be provided within a smaller building or extension which is more commensurate with the agricultural need.
16. To conclude, the evidence before me is insufficient to support the case for a permanent dwelling on the holding. Temporary living accommodation would be justified for a trial period but its provision within a permanent structure would run contrary to the general policy of restraint over buildings in the countryside which is contained within Strategic Policy 5 of the WDCS and saved Policy NE10 of the LPR. It would also conflict with the general approach towards rural worker dwellings set out in saved Policies H31 and H32 of the LPR.

Other Matters

17. It is argued the Council's position at appeal is inconsistent with that of the original case officer who had apparently accepted the principle of development but was unsure about the best means of conditioning it. Be that as it may, S79(1) of the Act stipulates that on appeal the Secretary of State may deal with the application as if it had been made to him in the first instance. Accordingly, I have considered this case *de novo* and dealt with it on its merits.
18. The appellant makes repeated claims that this is a highly sustainable agricultural holding. This point is not proven by the evidence presented to me. It therefore carries very limited weight in favour of the scheme.
19. I have noted the argument that the proposed extension could be erected as permitted development in 3 years' time. Whilst this has not been supported with evidence, it is not good reason on its own to allow the appeal.

Conclusion

20. The proposal does not comply with the development plan taken as a whole and there are no material considerations which would warrant a decision other than in accordance with the development plan.
21. For the reasons given above, and having regard to all other matters raised including the representations of support from third parties and the parish council, I conclude that the appeal should fail.

Robert Parker

INSPECTOR