



Appeal Decision

Hearing Held on 15 August 2017

Site visit made on 15 August 2017

by P N Jarratt BA DipTP MRTPI

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

Decision date: 23 August 2017

Appeal Ref: APP/W1145/C/17/3169063

Land at Pitt Farm, Hartland, Bideford, Devon, EX39 6BZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Messrs EJ, BA and MB Davey against an enforcement notice issued by Torridge District Council.
 - The enforcement notice, numbered 02/2017, was issued on 9 January 2017.
 - The breach of planning control as alleged in the notice is the material change of use of the land to the mixed uses of agricultural and residential use involving the human habitation of a caravan in the approximate position marked 'X' on the plan attached to the notice.
 - The requirements of the notice are:
 - (i) Cease using the caravan for residential purposes;
 - (ii) Remove the caravan from the land, and all paraphernalia associated with the residential use of the caravan.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (e) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: Notice corrected, appeal fails and planning permission refused**
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Procedural matters

1. An appeal on ground (g) was originally made but this was withdrawn by the appellants prior to the hearing.
2. The Council has requested that I replace the plan attached to the notice with the plan marked Appendix 2 dated 15 March 2017 and attached to the Council's statement of case. This plan excludes land associated with the bungalow at Little Meadow which is not under the control of the appellants. The appellants raise no objection to the substitution of the plan and, as no injustice would arise, I intend to use my power under s176 to correct the notice by substituting the correct plan.
3. A separate appeal was made by the former occupant of the caravan against the notice although this has been withdrawn.

The appeal site and relevant planning history

4. The appeal site relates to an established 95 hectare dairy farm located in open countryside within the North Devon Area of Outstanding Natural Beauty. The caravan referred to in the notice is sited within its own enclosure to the south

of the main complex of farm buildings. It is connected to services, has a small area of decking providing access and there is a shed adjacent to it within the garden. The farmhouse, a traditional barn, a dilapidated cob and stone building and a grade II listed cottage, known as Pitt Cottage, are to the west of the modern agricultural buildings serving the dairy farm.

The appeal on ground (e)

5. The appellants claim that the notice was not properly served on all the parties. Michael Davey's mother, Mrs B Davey, remains a partner in the business and is joint owner of the site. She was not served with the notice.
6. In response the Council state that they relied on a Land Registry search for Pitt Farm which identified Mr Michael Davey as holding Title Absolute of the land. Furthermore in response to question 2 of a Planning Contravention Notice, Mr Davey indicated that no other person known to him had an interest in the land.
7. I consider that the Council served the notice correctly in accordance with s172(2) but in any event, as agreed by the appellants at the hearing, Mrs B Davey was not prejudiced as a result.
8. The appeal on this ground fails.

The appeal on ground (a)

9. The appeal on this ground is that planning permission should be granted for what is alleged in the notice.
10. I consider that the main issue to be whether there is an essential need for an additional farm worker to live permanently at or near the site, and if so, whether there is existing accommodation on the holding or in the area that might reasonably meet that need.

Reasons

11. There is a milking herd of some 125 cows on the holding (reduced from the normal herd number of 140 due to an outbreak of TB), with associated young stock, giving around 285 in total. The appellants advise that the farm is run on a high performance system with robotic milking and detailed performance management technology. Two robotic milking machines have been purchased at a cost of £85,000 and £95,000. The standard man day (SMD) calculation shows the need for the equivalent of 4.73 full time workers or 5.12 with a full herd. However I note that the Council's estimate is 2.8 SMD based on the John Nix Farm Management and the Agricultural Budgeting and Costings book.
12. The appellants indicate that there is an essential need for a trained worker to be on site 24 hours a day due to the technology employed and that farm assurance requirements is for a 24 hour presence. The cows are milked about 3 times each day and if they are not milked regularly this could lead to animal health and welfare problems. At the hearing, the appellants indicated that Mr and Mrs Davey together with their son Thomas live and work full-time on the holding. Agricultural contractors are employed as necessary.
13. The mobile home has been in place since April/May 2007. From 2010 to March 2017 it has been tenanted by Ms Batten who paid a rent of £70 per week. She has been the first responder to the robots in the event of the alarm going off and has been able to re-programme the robots or call Mr Davey or his son

- Thomas. She indicated that she has responded to the alarm 4 or 5 times per year, each time during the day. She was not paid for this service.
14. On the basis of the evidence it appears that the robots are very robust and the alarms do not tend to go off at night. Additionally as there are two robots, if one fails, the other could still function although I note that certain cattle have a preference for one robot to the other.
 15. At the hearing the submitted accounts were discussed but it was not clear what payments were made to the Mr and Mrs Davey or their son for work on the farm or how the robots and their depreciation were reflected in the accounts. The accounts show losses in 2015 and 2016 but the appellants indicated that such losses arose from the effect of TB on the herd and fluctuating milk prices.
 16. The dairy farm has been established for many years and there has been considerable investment in new technology which may have reduced certain traditional work practices. There is also a clear need for two full-time agricultural workers to live on site to manage the herd for milking and calving. Whilst I appreciate Mr Davey's wish to have time off and that his son Thomas is involved in sport, these factors alone do not justify an essential need for a further agricultural worker to be resident on site. Whilst the SMD assessments are higher than this figure, they are not an indication that an additional worker has to live on or near the holding for welfare or assurance purposes.
 17. Even had I been convinced that there was an essential need for an additional worker to live permanently on or near the holding, Pitt Cottage is a 3 bedroom cottage under the control of the appellants that is let out to tenants and this contributes to farm income. There is also a traditional stone barn opposite the farmhouse that could potentially be renovated and converted for use by an agricultural worker. Furthermore although the bungalow occupied by Mrs Davey senior was removed from the land registry title for Pitt Farm and is the subject of an agricultural occupancy condition it could nevertheless potentially become available in the fullness of time.
 18. The National Planning Policy Framework at paragraph 55 seeks to avoid new 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 in the countryside. The emerging replacement local plan has not reached a sufficiently advanced stage for any weight to be attached to draft policies. However, saved Torridge District Local Plan Policies HSC8 and HSC10 reflect the aims of the Framework by seeking to control the development of agricultural workers dwellings and temporary agricultural dwellings and the appellants accept that these policies remain relevant. Whilst the appellant believes that HSC8 should apply as the farm is not a new business and it is unnecessary to demonstrate viability, it is accepted that the mobile unit is a temporary unit of accommodation. In any event, the mobile home fails to satisfy criteria (a), (c) and (d) of HSC8 regarding need, severance and the potential conversion of a suitable rural building. Similarly, the mobile home is in conflict with HSC10 criteria (b) and (e) regarding an essential need for siting on the holding and the availability of appropriate alternative accommodation.
 19. Although the Local Plan is of some age, the Saved Local Plan Policies described above remain compliant with the Framework and I therefore attach considerable weight to them. The continued siting of the mobile home would therefore be contrary to these policies and to the Framework.

Other considerations

20. The grade II cottage on the holding is sufficiently distant from the caravan for the setting of the listed building not to be harmed by the caravan.
21. Although the mobile home is screened from most views, the structure is of a temporary nature and it appears incongruous in an AONB and out of character with traditional farm buildings. Accordingly it fails to accord with DVT2C controlling development in the open countryside.
22. I have had regard to Mrs Batten's concern over the serious lack of accommodation in the area, that the mobile home has no impact on neighbours and it is not visible from the public road. I have also considered the appellants' suggestions that the mobile home could be the subject of conditions relating to occupancy, the permission being temporary and landscaping. However none of these considerations outweigh the harm that the mobile home has on open countryside.
23. For the reasons given above I conclude that the appeal on this ground fails.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and refuse to grant planning permission on the deemed application.

Decision

25. It is directed that the enforcement notice be corrected by the substitution of the plan dated 15 March 2017 attached to this decision for the plan attached to the notice. Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

Inspector

APPEARANCES

FOR THE APPELLANT:

Phoebe Millar BSc Hons MRICS FAAV, Robert H Hicks & Co.
Michael and Michelle Davey, appellants

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Marshall, Enforcement Officer
Stephen Belli Dip TP MRTPI, Planning Officer

INTERESTED PERSONS:

Lyn Batten, former tenant of mobile home
Andrew Hayward, Robert H Hicks & Co.

DOCUMENTS

- 1 Extract from Torridge District Local Plan: Policies HSC8, HSC9 and HSC10
- 2 Extract from Torridge DC mapping system 2017 showing the farm complex



Plan

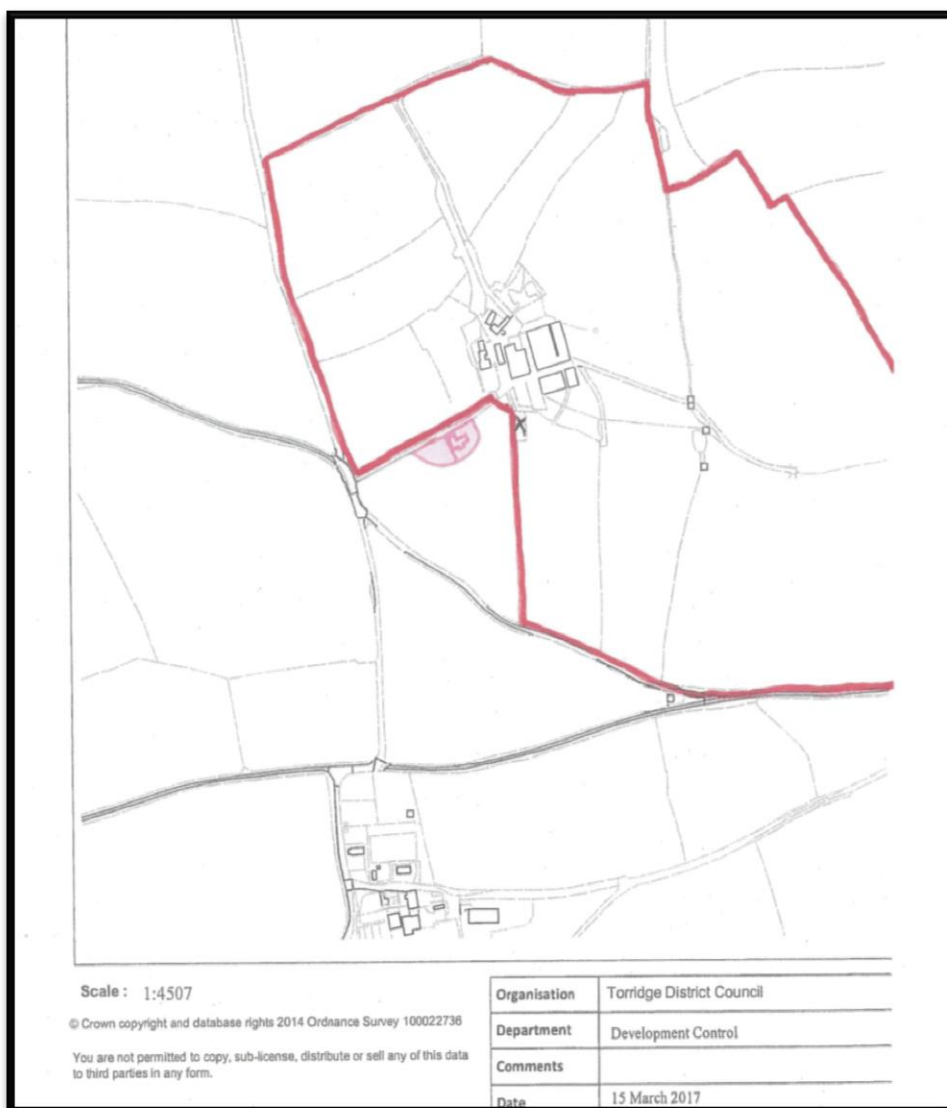
This is the plan referred to in my decision dated:

by P N Jarratt BA DipTP MRTPI

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Scale:



P N Jarratt

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