The Planning Inspectorate

Appeal Decision

Hearing Held on 18 July 2017

Site visit made on 18 July 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 24 August 2017

Appeal Ref: APP/X1355/W/17/3173189
Dunleyford Farm, Humberhill Lane, Lanchester DH7 0RT

- 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 T White, T A & N White Farming against the decision of Durham County Council.
- The application Ref DM/16/02077/FPA, dated 22 June 2016, was refused by notice dated 9 November 2016.
- The development proposed is the erection of a two storey detached agricultural workers dwelling with adjoining double car port and ancillary hard and soft landscaping features.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr T White, T A & N White Farming against the decision of Durham County Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue raised by this appeal is whether there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside.

Reasons

4. The holding at Dunleyford Farm is situated in the open countryside and comprises around 200 acres of land although the appellant rents some additional grazing land nearby. The proposed dwelling would be situated to the south of a large building used for the storage of grain and machinery. Adjacent to this is another storage building and farther away two livestock buildings including one which the appellant advises has recently been erected. In addition there is a mobile home which was granted temporary planning permission (but which has now expired).

5. The activity on the holding is described by the appellant as a "relatively simple livestock breeding business growing crops in part for sale and in part for feedstock" and my understanding is that the farming activity comprises both arable farming and the rearing of cattle. The main parties agree that this business generates a labour requirement for one full time worker.

6. Saved Local Plan[1] (LP) Policy EN1 only permits development in the countryside where it benefits the rural economy or where it helps to maintain or enhance landscape character. The National Planning Policy Framework (the Framework) supports a prosperous rural economy but also seeks to avoid isolated new homes in the countryside except under special circumstances which include the essential need for a rural worker to live permanently at or near their place of work. LP Policy EN1 is partly in accordance with the Framework, although the Framework includes a wider range of exceptional special circumstances where new homes may be acceptable.

7. Whilst both the Council and the appellant have referred to the former PPS7[2], in particular Annex A, this has been replaced by the Framework which does not contain detailed advice on how essential need might be demonstrated. However, in my judgement, for an essential need to exist there must be some aspect of the farm operation that demands a residential presence on the holding, and there must be some certainty that the farm business is sufficiently soundly established that this presence will be required for the foreseeable future.

8. The appellant considers that the business needs to be considered holistically, and that the crop growing and livestock breeding elements support one another, each allowing for fluctuations in the other's performance. However, there is no evidence to suggest that the requirements of the arable and feed growing component of the business generates an essential need for a rural worker to live on the holding. In the interests of animal welfare the rearing of cattle, especially during calving, is likely to require a presence of a worker living in close proximity and there are livestock on site that need such care.

9. The infrastructure evident on the holding, including the buildings, demonstrates that there has been significant investment into the business and this includes the cattle rearing component in the form of the two livestock sheds. The appellant has an aspiration to raise a high quality herd on the holding. Along with the development in the size of the herd, this provides an indication that there has been, and there continues to be, an intention to establish and develop the livestock element of the business.

10. Notwithstanding the Council's concerns that some costs associated with livestock breeding appear low or absent, the accounts provided by the appellant show that the business as a whole has made a profit for the most part of the last three years. The figures also show that the level of profit has increased over that time (noting that the latest accounts are only available up until January 2017).

11. However, the lack of differentiation between the livestock and crop elements of the business means that these figures do not make it clear what the income is from that component of the business which might require a worker to live on the holding. As the livestock component of the business is based around the breeding and sale of cattle, evidence of cattle sales from stock bred on the holding is an important indicator of how the business is developing and performing.

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[1] Derwentside District Local Plan, 1997.
[2] Planning Policy Statement 7: Sustainable Development in Rural Areas, 2004.

12. The appellant acknowledges that the investment has come from other sources as he has been building the business up. However, in order to establish that there is an essential need for a dwelling I consider it is reasonable to require a demonstration that the cattle rearing component of the business should be sustainable and would be profitable in itself. I have not been presented with any alternative convincing measure demonstrating the profitability or sustainability of the livestock component of the business.

13. The appellant also points out that there is no requirement under previous policy guidance relating to the necessity to demonstrate sales. Nevertheless, I consider it is reasonable and necessary to consider the sale of cattle bred on the holding as this is an essential component of the model of livestock business being established. Without evidence of such sales it is difficult to demonstrate that a viable business exists or that it would be likely to endure.

14. At the time the Council made its decision there had been no cattle sales. Evidence has been provided of the sale of six animals between the dates of the Council's decision and the Hearing. This level of sales of cattle in the period 2016/17 is considerably less than the business plan projection and then only in the last two months of that period whereas the business plan projected continual sales throughout that year (the second year of the business plan).

15. Provided that any inconsistencies in the cattle passport information pointed out by the Council could be resolved, the six sales that have taken place could be an early indicator that the livestock element of the business is becoming established. I can accept that there might be a variety of factors which have affected progress. However, notwithstanding that the appellants figures show the business as a whole making a profit over the recent period, this does not demonstrate that the profit was derived from livestock and therefore that the part of the business which might require a rural worker to be present has made any significant contribution to those profits.

16. Furthermore, a considerable amount of the grazing land supporting the livestock component lies outside the holding, rented on what the owner describes as a gentleman's agreement for five years. This limited security does not lend support for the long term sustainability of the livestock component of the business, although the appellant considers that sufficient pasture could be provided within the holding on land currently used for crops should the need arise.

17. I can accept that the welfare requirements of breeding cattle would need the presence of a worker on site. However, the Council point out that during the three year temporary permission for the mobile home there was no evidence that a cattle rearing business had become established. I can also accept that the anticipated growth of the livestock component of the business is a consideration. However, given the relatively recent first sales and the history of a viable cattle rearing business not having been established during the previous mobile home approval period, the evidence before me does not demonstrate that a successful livestock business has been clearly established with a reasonable prospect of it enduring in the long term, necessitating a rural worker to live permanently on the holding.

18. It has not been demonstrated that there is an essential need for a permanent dwelling on the holding. The proposal would therefore be contrary to LP Policy

EN1 and does not demonstrate the special circumstances the Framework requires to justify an isolated new home in the countryside.

19. In considering that the application was, in their view, premature, the Council point out that it may well be that the progress made, if sustained, has the potential for demonstrating that the business can endure and they have indicated they are willing to support further temporary accommodation on the site. Whilst I can appreciate that a permanent dwelling could give the appellant the confidence to undertake further investment in the livestock component of the business, I do not consider that this would be essential particularly in light of the investment which has been possible to date with a temporary dwelling. However, I do not consider that either at the time the Council took their decision, or more recently, that it has been satisfactorily demonstrated that there is an essential need on the holding for a permanent rural worker's dwelling at this stage in the business's development.

20. The main parties have referred to a previous appeal decision[3] which dismissed a dwelling on the site and which I have taken into account. Although the Inspector in that case referred to the financial viability of the "holding" it is clear from his reasoning that evaluation of essential need was considered in terms of the livestock enterprise. Whilst I can appreciate that the appellant has addressed some of the deficiencies of that previous scheme, including concerns over the design of the dwelling and, to some extent, an absence of business plan, a convincing demonstration of essential need remains absent in the current proposal.

Conclusion

21. For the above reasons, and having had regard to all other matters raised, it has not been demonstrated that there is an essential need for a dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside. The proposal is therefore contrary to the development plan and the Framework, and the appeal is dismissed.

Geoff Underwood

INSPECTOR

[3] APP/X1355/W/15/3131363.

APPEARANCES

FOR THE APPELLANT:

Neil Robson, Solicitor	Ward Hadaway
Adam Barrass, MRICS, FAAV	Vickers & Barrass Chartered Surveyors
Thomas White	Dunleyford Farm
Norma White	Dunleyford Farm

FOR THE LOCAL PLANNING AUTHORITY:

Louisa Ollivere, MRTPI	Planning Officer, Durham County Council
Julie Liddle, MRICS, FAAV, LLM	Robson & Liddle (Rural) Limited

DOCUMENTS SUBMITTED AT THE HEARING

1. Trading & Profit & Loss Account for the 10 months to 31 January 2017 (page 2 of Management Accounts, previously missing from Appendix 5 of Mr Barrass's Statement).
2. Notes of Mr Robson's closing comments.