The Planning Inspectorate

Appeal Decision

Hearing Held on 7 January 2020
Site visit made on 7 January 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/J9497/W/19/3235086
Land to the North of Lower Blackaton, Blackdown Piper TQ13 7UB

- 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 C Godfrey of Cator Blackaton Farming Ltd against Dartmoor National Park Authority.
- The application Ref 0074/19, is dated 29 November 2018.
- The development proposed is erection of agricultural workers dwelling (principal dwelling).

Decision

1. The appeal is dismissed and planning permission for erection of agricultural workers dwelling (principal dwelling) is refused.

Preliminary Matters

2. The application was submitted against the failure of the Authority to determine the application within the prescribed period. The Authority did not explicitly specify any putative reasons for refusal, but through the Statement of Common Ground and at the hearing, it was confirmed that had the Authority been in a position to determine the application, it would have refused it for a single reason relating to the lack of justification for an agricultural workers dwelling.

3. Certificate A on the appeal application form was signed on behalf of Cator Blackaton Farming Ltd and indicates that the appeal site is owned by the appellant company. Despite this, it became clear during the hearing that there is an interested company, of which Mr Godfrey is a director. Mr Godfrey alleges that he has served notice of the application and appeal on the interested company and that there has been no prejudice to it through the failure to complete Certificate B. In any event, I have dismissed the appeal and therefore the interest company cannot be prejudiced.

Background Information

4. There is an extensive planning history[1] associated with the farming enterprise, Cator Blackaton Farming Ltd, and its directors, Mr Charles Godfrey and Mrs Elizabeth Godfrey. It was clarified at the hearing that the appeal site should be referred to as 'Blackdown Piper Farm' and that this incorporates land at Lower Blackaton. The land on the opposite side of the rural road was to be referred to as 'Land at Blackaton'.

[1] Including appeal references APP/J9497/W/16/3154083 allowed on 27 October 2016 and APP/J9497/W/15/3004706 dismissed 9 June 2015

5. An extant permission exists for an agricultural workers dwelling on Land at Blackaton[2] which was a revised design of a dwelling approved by an earlier appeal decision[3]. The time limit for implementation of the latter permission extends until 15 October 2021 and it does not appear that any development has yet commenced.

6. An extant permission also exists for a temporary agricultural workers dwelling on Blackdown Piper Farm[4] (appeal site) which was allegedly required during the construction of the permanent dwelling on Land at Blackaton. Whilst the site has historically been cleared, no temporary dwelling has been brought onto or constructed on the land since the permission was given on 18 October 2018. A condition on that permission requires the removal of the temporary dwelling on, or by the 17 October 2021.

Main Issue

7. The main issue is whether there is sufficient justification for an agricultural workers dwelling, having regard to policies which seek to restrict rural development in the National Park.

Reasons

8. The appeal site is located in a rural position within Dartmoor National Park. The nearest settlement is Widecombe-in-the-Moor which is approximately 4 kilometres away.

9. The Dartmoor National Park Authority (DNPA) Core Strategy Development Plan Document (June 2008) (the Core Strategy) and the DNPA Development Management and Delivery Development Plan Document (July 2013) (DMD) together form the Development Plan for the area.

10. Policies COR2 and COR15 of the Core Strategy steer new residential development on the basis of a hierarchy of Local Centres and Rural Settlements, chosen to ensure that development is located to reduce the need to travel and maintain the rural character of the area. Along with Policy DMD23, it is clear that in the open countryside, new residential development is to be restricted to that serving the proven need of rural enterprises or through the appropriate conversion of existing buildings to affordable dwellings.

11. Due to its location outside of any named settlement and given the rural position of the appeal site, the provision of a new unrestricted dwelling would conflict with Policies COR2 and COR15 of the Core Strategy which attract full weight.

12. Policy DMD23 goes on to set out detailed criteria against which new dwellings for rural enterprises will be assessed. The requirements include that there should be: (i) no existing building that could be converted; (ii) an established existing functional need for a worker to be readily available at most times; (iii) the accommodation needs to relate to a worker employed on the holding or enterprise; (iv) that the holding has been established for at least three years, profitable for at least one, be financially sound and with a clear prospect of remaining so, and (v) that the need for permanent accommodation cannot be

[2] 0457/18 granted on 15 October 2018
[3] APP/J9497/W/17/317727 allowed on 18 December 2017
[4] 0257/18 granted on 18 October 2018

met by another suitable and available dwelling on the holding, or unit, or in the locality.

13. The historical permissions for agricultural workers dwellings granted to Cator Blackaton Farming Ltd and/or Mr Godfrey have been based on the two farms, 'Land at Blackaton' and 'Blackdown Piper Farm' being considered as one. As such, it is necessary to examine the farms separately and the links between them in terms of ownership, planning history and agricultural operations.

14. Land at Blackaton is a farm that is owned by Mr and Mrs Godfrey and they continue to farm the land. Land at Blackaton comprises 60 acres (24 hectares) and c. 150 cows and sheep. It also has extensive grazing rights over the moors that Mr Godfrey claims that he utilises.

15. Blackdown Piper Farm (the appeal site) is a farm comprising of broadly 143 acres (57 hectares) and has c. 600 animals, including cows, ewes and their respective progeny. It also has moorland grazing rights. It is owned by a trust-based pension scheme which was established in 2006.

16. Mr Godfrey advised that the trust company purchased the farm in 2006 and still has ownership thereof. He also confirmed that he farms Blackdown Piper Farm for the benefit of the trust, of which he is both a trustee and beneficiary. The trust has recently undergone a change from a self-invested personal pension scheme (SIPP) to a small self-administered pension scheme (SSAS). It was explained that a SSAS differentiates from a SIPP insofar as it is capable of borrowing money should it need to do so.

17. Mr Godfrey explained that when the proposal for the permanent agricultural workers dwelling was submitted on Land at Blackaton it included land at Blackdown Piper Farm (and Lower Blackaton). This was because an agricultural tenancy agreement allowed both farms to be considered as a single entity. Whilst not submitted with the appellant's written evidence, it was claimed that the original tenancy agreement ran between 2006 and 2012, with another subsequent agreement running from 2012 to November 2018.

18. From an accounting perspective, Mr Godfrey confirmed that all of the relevant farms are handled separately of one another. However, for simplicity, all rural subsidies and payments claimed under the 'Single Payment Scheme' and 'Environmental Stewardship Scheme' are claimed for all farms as one under the name of Mr Godfrey (including Blackdown Piper, Hele Farm and another at Chagford). Mr Godfrey indicated that this was little different from submitting a single tax return for all of his combined business interests and does not indicate that the farms should continue to be considered as one.

19. Mr Godfrey confirmed that Cator Blackaton Farming Ltd has three employees, including the Farm Manager and two farm workers who are broadly full time. There are also 9 contractors who work across all farms to undertake works such as maintenance to fences, walls and hedges. Mr Godfrey confirmed that the one Farm Manager manages both farms, with approximately 85% of time spent at Blackdown Piper Farm and 15% of time spent at Land at Blackaton. It was highlighted that the labour calculations put forward by the appellant for 2.78 units of labour across both farms has been calculated using the J. Nix Pocketbook 47th Edition, ABC Budgeting and Costing Guide and that both Mr and Mrs Godfrey form part of the labour calculations for the farms.

20. The proposal seeks to secure a permanent agricultural workers dwelling on Blackdown Piper Farm to replace the dwelling which has a temporary three-year consent. This would allow for finance to be secured for its construction. It is claimed that the agricultural dwelling consented on Land at Blackaton is not available to Blackdown Piper Farm and that the two are to be treated separately, notwithstanding that this differs from how they were historically treated. It is claimed, through the supportive report of Mr Sheamus Machin, that there is a substantiated need for a dwelling based on livestock numbers, the extent of land and labour requirements of Blackdown Piper Farm considered in isolation.

21. The Authority indicated that the two farms and their total need for an agricultural worker/s, their financial footing and availability of dwellings should be considered holistically. In support of this position, an interested party commented that it appears, through the movement of farm machinery and livestock, that both Land at Blackaton and Blackdown Piper are farmed as a single entity.

22. Given that the holdings are both in the control of the appellant (albeit with technical differences between the nature of the control), I do not consider that it is simply a case of considering the needs of Blackdown Piper Farm in isolation. It was clear to me that despite the absence of a current agricultural tenancy agreement, that there is a fluidity between Land at Blackaton and Blackdown Piper Farm in terms of management control, labour, livestock movements and subsidy and payment regimes. As such, I conclude that the farms should be considered as one entity.

23. Subsequently, I consider that the extant permission for a dwelling on Land at Blackaton is a 'suitable and available' dwelling on the holding for the purposes of the assessment to be made under DMD Policy DMD23. It was agreed that other than its suggested lack of availability to Blackdown Piper Farm that there are no obstacles preventing implementation of the extant permission and there is no evidence to suggest that it would be unsuitable to service the appeal Farm.

24. It was conceded at the hearing that were I to consider that another dwelling were available, that the assessment would turn on whether a second agricultural dwelling would be justifiable. Given the conclusions of Mr Sheamus Machin, including that there is a need for an agricultural workers dwelling at Blackdown Piper Farm and that it is sufficiently financially viable, the question remains as to whether Land at Blackaton is a farm that sufficiently justifies the dwelling for which permission already exists.

25. The report from Mr Sheamus Machin does not attempt to address the issue as to whether there would be sufficient justification for two dwellings. The separate report of Mr James Clack, then of NPS, suggests that there would be insufficient need for two dwellings, although the appellant raised some doubt about whether his assessment adequately took account of all of the livestock and extensive moorland grazing rights.

26. Land at Blackaton is now a farm of a far smaller size than was originally included to justify the extant permission. The original agricultural appraisal produced by Smiths Gore[5] showed the extent of the holding to encompass both

[5] The extracted plan of which was appended to the Authority's Statement of Case

farms, whereas it is now c. 60 acres and its capacity to accommodate livestock has decreased proportionately. Mr Godfrey indicated that additional land has recently been acquired to form part of Land at Blackaton and claimed he would be further expanding the size of the holding in due course.

27. In terms of the other practicalities of farming Land at Blackaton, it was highlighted that it had no useable farm buildings, whereas Blackdown Piper Farm benefits from both modern and dated buildings suitable for housing livestock. Whilst attention was drawn by the appellant to the existence of stone walls which formerly constituted a small shepherds hut, it was confirmed that these remains currently served no functional purpose and that they would need to be reinstated with complete walls and a roof to be functional.

28. In terms of finances, the isolated accounts for Land at Blackaton for the period 2015 to 2018 show that it has not made a profit in one year of the last three. This fact was agreed by the parties. The appellant's evidence highlights that the loss of ability to generate income from part of Blackdown Piper Farm, owing to the expiry of the agricultural tenancy, contributed to the latest loss incurred in 2018. The appellant's evidence also includes an unsubstantiated claim that despite this trend, Land at Blackaton is now on a good financial footing going forward.

29. Notwithstanding that different conclusions have been reached by others, taking account of all relevant factors, it has not been adequately demonstrated to me from the evidence provided that the Land at Blackaton would justify an agricultural workers dwelling were it considered afresh on the basis of its current merits. This is owing, amongst other things, to its diminished size, the lack of useable farm buildings, its far reduced labour requirements, the continued fluidity of farming operations over it in combination with Blackdown Piper Farm, and its poor financial track record.

30. Therefore, whilst the permission remains extant for the dwelling on Land at Blackaton which is considered to be available to Blackdown Piper Farm, and until such time as sufficient evidence demonstrates a need for two agricultural dwellings on the Farms, it cannot be concluded that there is sufficient justification for the proposed agricultural workers dwelling.

31. The proposal therefore conflicts with Core Strategy Policies COR2, COR15 and DMD Policy DMD23, which seek to restrict housing development outside of Local Centres and Rural Settlements to that serving the *proven* needs of agriculture and forestry or other essential rural businesses (my emphasis).

Other Matters

32. Core Strategy Policies COR1, COR3 and COR4 and DMD Policies DMD1b, DMD5 and DMD7 relate to the conservation of the landscape characteristics and design principles respectively. None of these policies are central to the assessment of the proposal as the parties agree that the scale and the design of the dwelling is acceptable and that it would have limited landscape effects subject to additional landscaping.

33. During the site visit, my attention was drawn to a corner of a barn at Lower Blackaton where the farm manager allegedly sleeps from time-to-time without basic WC facilities. Whilst I am mindful of the needs of the Farms and their respective livestock, given the extant planning permissions, there appears to

be a route to resolving such issues in a timely manner, even without the appeal proposal.

34. The appellant indicated that his future intention would be to retire in the dwelling on Land at Blackaton. I have no information about the appellant's plans to retire and the needs of the enterprise could have changed by that time in any event.

35. I also note that the appellant has a health condition which he considers is being exacerbated by the strains of running a farm from a remote dwelling and also from the protracted planning processes which he has had to face. Whilst this is regrettable, this does not alter or outweigh my findings on the main issue.

Conclusion

36. For the reasons given above, the proposal conflicts with the Development Plan. None of the other points put forward amount to considerations of sufficient materiality to outweigh this conflict.

37. For the above reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

DOCUMENTS SUBMITTED

Document 1	Unreferenced plan showing extent of the holding 'Blackdown Piper' and separate 'Land at Blackaton'

APPEARANCES

FOR THE APPELLANT:

Mr Charles Godfrey	Appellant
Mr Ed Persse	Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Louise Barattini	Dartmoor National Park Authority
Mr James Clack	Chartered Land Agent from Kivells, formerly NPS

INTERESTED PERSONS:

Mr Paul Hammett	Grendon Lodge
Ms T Arrowsmith-Brown	Soussons Farm