



Appeal Decision

Site visit made on 3 December 2019

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 29 January 2020

Appeal Ref: APP/U2805/W/19/3237498

Bull Pen Farm, Rockingham Road, Cottingham LE16 8XS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant 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 Mrs S Bradshaw against the decision of Corby Borough Council.
 - The application Ref 19/00281/RVC, dated 30 May 2019, was refused by notice dated 22 August 2019.
 - The application sought planning permission for '*retention of temporary agricultural workers dwelling as permanent agricultural workers dwelling*' without complying with a condition attached to planning permission Ref 18/00610/DPA, dated 2 May 2019.
 - The condition in dispute is No 4 which states that: *The hereby approved use of the static caravan at Bull Pen Farm, Cottingham; as a permanent dwelling accommodation shall: (i) only be occupied by Mrs Sherilee Bradshaw and immediate family/resident dependents; (ii) be engaged in farming/agriculture at the subject premises. Should Mrs Sherilee Bradshaw cease residing at the accommodation, the use shall cease upon her vacation unless further planning permission is obtained from the Local Planning Authority; or the caravan removed from the site and the land returned to its former state/condition.*
 - The reason given for the condition is: *The development proposed is only acceptable because of the special circumstances of Mrs Sherilee Bradshaw (as noted in the letter from the applicant/agent dated 04.09.2018 together with supporting documents; and the council wishes to have the opportunity of exercising control over any subsequent use in the event of the applicant ceasing the use hereby permitted. To ensure compliance with Policy 13 of the North Northamptonshire Joint Core Strategy (2011-2013) and the NPPF(2018).*
-

Decision

1. The appeal is allowed and planning permission is granted for a temporary agricultural workers dwelling as permanent agricultural workers dwelling at Bull Pen Farm, Rockingham Road, Cottingham LE16 8XS in accordance with the application Ref 19/00281/RVC dated 30 May 2019, without compliance with condition number 4 previously imposed on planning permission Ref 18/00610/DPA dated 2 May 2019 and subject to the schedule of conditions attached.

Procedural Matters

2. The reason for refusal in the Council's decision notice states that '*it is considered the proposed removal/deletion of condition 4 of planning permission 18/00610/DPA would likely to lead to a permanent dwellinghouse in the*

countryside in perpetuity;'. This is also referred to in the Council's delegated report (The Proposal). However, this is not the proposal before me as the appellant applied under Section 73 of the Town and Country Planning Act 1990 (as amended) (the Act) to vary condition 4. Under the Act, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. However, it is necessary to consider whether the condition was appropriately imposed and its merits. As such, I intend to deal with the appeal on that basis.

3. The Council in their evidence have described the structure which forms the appeal site as being a building, caravan, static unit and static caravan and confirms that the words have been used interchangeably in previous applications but refer to the same subject structure. The appellant disputes the references and considers it should be referred to as a permanent dwelling. As I saw on my site visit, the structure is of a substantial nature, with a degree of permanence due to the time it has been on the site but would still be capable of being moved if so required. I therefore consider the structure is comparable to a mobile home/static caravan and I have dealt with the appeal on this basis.
4. The Council's and appellant's evidence rely on guidance contained in Circular 11/95. With the exception of Appendix, A (model conditions) which is retained, the publication has been cancelled and replaced¹ by Planning Practice Guidance (PPG). As such, I can only give full weight to Appendix A of the Circular in this appeal decision.
5. Notwithstanding the heading as set out in the banner, I have removed the word 'retention' from the appeal decision as this is superfluous.

Background and Main Issue

6. Bull Pen Farm is a working farm, outside of the settlement of Cottingham Village. Planning permission was originally granted in July 2014², and again in 2017³ each for a temporary period of three years for a mobile home as an agricultural worker's dwelling. The Council at that time considered that the financial viability and sustainability of the enterprise and the essential need for a rural enterprise worker to live on the site for the operation of the business, had not been fully justified to allow the permanent siting of the mobile home at the site.
7. In 2018⁴, however, the Council granted permission for the permanent siting of the mobile home as it considered the application demonstrated there was an established farming operation and the family had grown the farm business; livestock numbers, farm machinery and buildings had increased; opportunities were there to expand, and the farm was sustainable. Whilst, the mobile home was well located to the farm buildings it demonstrated a need to provide security and welfare roles to reside on site or be located close by.
8. The appellant now wants to vary condition 4 of this permission, which restricts the use of the accommodation specifically to the appellant who must be working in farming/agriculture, to the standard model agricultural occupancy condition, thereby removing the personal nature of the condition. This would

¹ 6 March 2014

² 14/00034/DPA

³ 17/00313/DPA

⁴ 18/00610/DPA

mean removing condition 4 and replacing with: *'The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants'*.

9. The main issue is therefore whether the condition in dispute is reasonable and necessary in regard to local and national planning policies and the character and appearance of the area.

Reasons

10. The appeal site is a single storey timber constructed mobile home which is in use as a permanent agricultural worker's dwelling occupied by the appellant and their family. It is situated on a working farm with a range of agricultural buildings and is located towards the outskirts of Cottingham with access from Rockingham Road. There are a number of nearby residential dwellings situated on Rockingham Road, whilst the site itself is surrounded by open countryside.
11. In determining the original application, the Council assessed whether it had been demonstrated that it was appropriate for the temporary agricultural workers dwelling to become permanent. The appellant in support of the application submitted an appraisal⁵. It confirms that the appellant and husband moved to the farm in 2013 and that the farm is run by the appellant with help from her husband and two sons at busy times and that it is essential for the appellant and family to live on the farm. The Council's consultant carried out a full appraisal⁶ of the information provided by the appellants and as such concluded that it is a working farm operation and the Bradshaw family have grown the farm business. It establishes that there is an essential need for a rural worker to live permanently at the appeal site. I have no substantial evidence or reason to disagree with these findings.
12. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
13. As set out in the PPG⁷, planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission, this includes new residential accommodation in the open countryside for agriculture, it may be justified on the grounds that an applicant has successfully demonstrated an exception need.
14. Policy 13 of the North Northamptonshire Joint Core Strategy (2011-2031), adopted 2016 (NNJCS) relates to rural exceptions, development in open countryside and sets out criteria which must be met. Criterion B, considers permission will not normally be granted, with the exception; that dwellings for rural workers at or near their place of work in the countryside, provided that: the dwelling is required to enable someone who is in full time employment in

⁵ An appraisal of the need for a dwelling at Bull Pen Farm (Peter R. Sharpe B.Sc., Ph.D., Farmer and Agricultural Consultant) August 2018.

⁶ An appraisal relating to an application for retention of a temporary workers dwelling to allow permanent consent for an agricultural worker: (On behalf of Corby Borough Council by Landscape Land and Property) March 2019.

⁷ Planning Policy Guidance (PPG): Paragraph: 015 Reference ID: 21a-015-20140306 Revision date: 06 03 2014

agricultural, forestry or similar rural business to meet the essential need of the enterprise concerned; and it can be demonstrated the functional, financial and viability tests have been met.

15. Whilst Policy 13 of the NNJCS clearly pre-dates the Framework (2019), I consider that in seeking to control isolated new development in the countryside and recognise the essential need for a rural worker to live permanently at or near their place of work, it is broadly consistent with paragraph 78 of the Framework, and I have also had regard to the High Court judgement⁸.
16. The supporting text to Policy 13 in paragraph 5.40 and 5.41 explains the special circumstances in which isolated residential development may be justified and the specific functional, financial and viability tests that need to be satisfactorily met in order for an isolated rural workers' dwelling to be acceptable.
17. Accordingly, in light of the above, I am satisfied that in principle, that a condition is necessary to avoid the development of new dwellings within the open countryside without appropriate justification. Although a condition would be supported to be necessary by planning policy, neither the policy or supporting text set out that a personal condition to restrict occupancy should be imposed or that it would be reasonable to do so. As such, condition 4 was imposed to provide a fair planning balance between giving the subject farm/business a degree of certainty to grow as a going concern vis-à-vis, maintain the openness of the countryside and that the suggested model agricultural occupancy condition would not suffice in this instance and reference special circumstances.
18. The imposition of an agricultural occupancy condition on an existing dwelling, and in this instance the mobile home is usually applied in order to prevent the existing structure/property being sold and an application for a further dwelling being made. In this case, bearing in mind the evidence and established nature and extent of the farm holding, its financial viability and the location of the dwelling within the farm complex, I have no reason to believe that the dwelling would be sold off or moved off site within the foreseeable future.
19. The Council refer to the special circumstances to justify the personal condition are the letter dated 4.09.2018 together with supporting documents of the original application submission. These formed the basis of approving the original application from a temporary to a permanent agricultural worker's dwelling. The personal condition would also suffice to protect the character and appearance of the open countryside from visual harm as it would restrict the mobile home from becoming independent of the farm and the creation of a permanent new dwelling within the countryside.
20. The appellant wishes for her family to continue to live/work at the farm when she is not there and the model condition could satisfy to restrict the development itself to agriculture, the farm and without placing an unnecessary burden on them. Therefore, the mobile home would still be restricted as an agricultural worker's dwelling and be seen in the context of the existing farmstead and outbuildings and would not result in any urbanising effect causing harm to the character and appearance of the site.

⁸ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

21. The farm itself is also screened from the main road, and from long range views across the fields would reflect the nature of the farm operations and existing agricultural buildings already constructed. Neither, do I consider it would set a precedent for further significant harm to the open countryside as the model condition would still restrict the use of the mobile home on the land. Although, Policy 8 of the NNJCS seeks that development must take account on its effect on the character and appearance of the area and that development responds to local character, a site's immediate and wider context, the policy was not included as a part of the reason for refusal.
22. Furthermore, there are existing restrictive conditions on the use of the mobile home as a dwelling being carried out in connection with the operation of Bull Penn Farm and remaining ancillary, which could be imposed on any subsequent permission. Nevertheless, in any event, should this happen and an application for a new independent dwelling were to be submitted, this would be a future matter for the Council to deal with and would be subject to scrutiny and assessed against Policy 13, 8 and the Framework.
23. There is also no reason why the appellant would need to renew the original permission or any temporary permission(s) as the Council suggests, as it has already granted the permanent use of the mobile home to a dwelling and that would remain extant and unaltered (along with the conditions with it).
24. For the reasons given above, I conclude that condition 4 is necessary but shall be modified having regard to the specifics of this case and that it is reasonable to do so, whilst it would not cause harm to the character and appearance of the countryside. It would comply with Policy 13 of the NNJCS, 2016, which seeks to restrict permission for new build residential development, with certain exceptions; dwellings for rural workers at or near their place of work; required to enable someone who is in full time employment to meet the essential need of the enterprise; demonstrated the functional, financial and viability tests. It would also comply with the Framework, in particular on rural housing and paragraph 79.

Other Matters

25. My attention has been drawn to previous appeal decisions⁹. Although there are similarities to the appeal proposal relating to the agricultural use, none of these were to remove a personal agricultural occupancy condition and replace with a modified (model) condition. Accordingly, their circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conditions

26. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the PPG. In allowing the appeal I have made reference to compliance with other conditions imposed on the original permission, so far as the same are still subsisting and capable of taking effect. I have therefore granted a new permission, removing the disputed condition.

⁹ APP/T2350/C/16/3161917, 3161918, 3161673, 3161671

27. In the interests of limiting the occupation of the mobile home as a permanent agricultural worker's dwelling, I have replaced the disputed condition with the suggested model condition. The Council's suggested wording of the conditions tying the dwelling to the operations of Bull Penn Farm would not be precise and enforceable, I have therefore amended these as necessary to comply with the six tests¹⁰.
28. The Council have suggested the removal of permitted development rights. In consideration of the PPG¹¹ it is justified and that there are exceptional circumstances to impose this condition, in protecting any visual harm to the character and appearance of the countryside.
29. I have not imposed the suggested condition regarding the time condition, plans and documents as it is not appropriate as the development has commenced.

Conclusion

30. For the reasons set out above, I conclude that the appeal should be allowed subject to conditions.

K A Taylor

INSPECTOR

¹⁰ Planning Policy Guidance (PPG): Paragraph: 003 Reference ID: 21a-003-20190723: Revision date: 23 07 2019

¹¹ Planning Policy Guidance (PPG):Paragraph: 017 Reference ID: 21a-017-20190723: Revision date: 23 07 2019

Appeal Ref: APP/U2805/W/19/3237498
Bull Pen Farm, Rockingham Road, Cottingham LE16 8XS
Schedule of conditions attached to planning permission

- 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.
- 2) The use of the mobile home at Bull Penn Farm, Cottingham shall only be used as permanent dwelling accommodation which is carried out in connection with the operations of Bull Penn Farm.
- 3) The use of the hereby approved mobile home as a dwelling shall remain ancillary to Bull Pen Farm, Cottingham; and shall not be separated or sub-divided or sold off; as independent dwelling accommodation.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out in respect of the hereby approved mobile home as a dwelling under Classes A, B, C, D, or E of Part 1 of Schedule 2 of GPDO 2015 without further/express planning permission from the Local Planning Authority.