



Appeal Decision

Hearing Held on 7 January 2020

Site visit made on 7 January 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/U1105/W/19/3237065

Grindlebrook Farm, Sidmouth Road, Aylesbeare EX5 2JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs C.J. Roberts Cheryll Roberts against the decision of East Devon District Council.
 - The application Ref 18/2512/FUL, dated 29 October 2018, was refused by notice dated 5 April 2019.
 - The development proposed is described as proposed agricultural workers dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development provided in the application form has been amended in subsequent documents. I have adopted the description of development provided in the Council's decision notice, as it accurately and concisely reflects the proposal before me.
3. The appellant submitted amended plans¹ during the course of the planning application which, I understand were not considered by the Council in their determination of the planning application and were not subject to a period of public consultation. The amended plans show minor alterations to the external appearance of the proposed dwelling. Having regard to the Wheatcroft principles², I consider that the proposed changes would not fundamentally alter the nature of the development previously consulted upon and determined by the Council. I shall therefore determine the appeal on the basis of the submitted drawings, together with the amended plans.

Main Issue

4. The main issue is whether there is an essential need for an additional dwelling to accommodate a rural worker, having regard to national and local planning policy, which seek to restrict housing development in the countryside.

Reasons

5. Located within an area of rural character, the appeal site forms part of Grindlebrook Farm, which currently operates as a mixed horticultural and agricultural enterprise and a caravan/camping site. The site comprises an

¹ Drawings nos.PL02 and PL03 Rev.A (Dated January 2019).

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

existing dwelling and garage, which were granted outline permission in 1998. The property, which is subject to an agricultural occupancy condition, currently provides residential accommodation for the appellant, her husband and her son. The site otherwise includes a number of small enclosures for the keeping of animals, polytunnels and outbuildings, as well as two single storey buildings which are used as a reception area and shower/toilet facilities for the caravan site.

6. In accordance with the spatial strategy adopted within the East Devon Local Plan 2013-2031³ (LP), the appeal site lies, for planning policy purposes, within the countryside. LP Policy H4 permits residential development proposals in the countryside for persons employed in rural businesses, but this is subject to a number of strict criteria being fulfilled. This policy broadly accords with the approach set by paragraph 79 of the National Planning Policy Framework (the Framework). It is accepted by the parties that, by reason of its location, the proposal would constitute an isolated home in the countryside.
7. The appellant however considers that there is a proven and essential rural business need for an additional permanent dwelling to be provided on the site. The proposed bungalow would provide accommodation for her son, who works on a full-time basis as the site manager and carries out the majority of the day to day activities. The appellant's submissions indicate that Mr and Mrs Roberts have now retired from day to day operations, and that their role in the enterprise is now incidental. At the hearing, the appellant confirmed that she carried out administrative tasks and arranged bookings, whilst her husband assists with the ongoing demands of the business.
8. Grindlebrook Farm extends to approximately 5.6 hectares. It was acquired by Mr and Mrs Roberts in 2008, who have over the years developed the site into a mixed rural enterprise. They produce seasonal hanging baskets for the local community and local businesses. In addition, a small number of pigs, geese, turkeys, chickens and ducks, as well as bees, are kept on the farm. The products are then sold via the farm gate to on-site holiday makers, passing trade and wholesalers. The evidence submitted by the appellant includes a letter from a local self-catering provider, who intends to source plants, meat, eggs and vegetables from Grindlebrook Farm. However, and whilst the appellant intends to develop the farmed livestock element of the enterprise, the horticultural and agricultural aspects of the business remain currently modest in scale.
9. The camping/caravan site operates throughout the year, and the appellant's submissions indicate that more than half of the annual turnover for the business comes from the tourism element. Additionally, I note that a Licence for a maximum of 30 caravans has recently been issued by the Council, and the income generated by the tourism element is therefore likely to increase further. Despite the contribution made by the different aspects of this mixed enterprise, it is clear that the camping/caravan site plays a major role in this agricultural business.
10. I am in no doubt that the mixed nature of the business requires a wide range of tasks to be undertaken by several employees (albeit on a seasonal basis for some of them) to enable the proper functioning of the enterprise. That said, it seems that the majority of the work can be carried out during daytime hours

³ Adopted 28 January 2016.

by employees commuting to the site and which would not require an additional full time worker to be present on site on a permanent basis.

11. Whilst it is argued that the additional dwelling is required for security and safety purposes, I am not persuaded, on the basis of the available evidence, that this provides justification for an additional dwelling, notably because electronic surveillance could provide further assistance in this regard. I accept that the existing property is sited slightly further away from the camping/caravan site and the livestock. However, the limited number of interventions and incidents brought to my attention suggest that this function can currently be accommodated by the existing property, particularly as the appellant, who is named as one of the licence's holders for the caravan site, and her husband remain presently involved in the business. Equally, I am not convinced that the permanent on-site presence provided by the existing dwelling is not sufficient to safeguard the welfare of the farmed animals.
12. At the hearing, Mr and Mrs Roberts explained that they have invested approximately £200,000 in the business since they gained ownership of the farm in 2008. In particular, the money invested has enabled the reinstatement of the polytunnels, but also the construction of additional farm buildings and a workshop. Shower and toilet facilities were also constructed to develop the caravan/camping site. At the hearing, it was explained that all infrastructures are in place to enable the expansion of the caravan park. And over the next few years, the focus lies on the gradual improvement of the facilities and access provided for the caravan park, but also the construction of additional paddocks to keep farmed animals.
13. Mr and Mrs Roberts have confirmed that this is a self-funding business, and options have been explored to finance the construction of the proposed dwelling, without the need for a mortgage, particularly as it would be much cheaper than purchasing a similarly sized property elsewhere. That said, I have not been supplied with estimated build costs for the proposed dwelling, thus limiting the weight which can be afforded to this consideration.
14. Whilst I accept that the rural enterprise has been established for approximately 10 years, limited financial information is before me to demonstrate that the business is commercially viable. In the same manner, the submitted business plan lacks clarity, particularly in respect of the costings and expenditure necessary to enable the proper functioning of the enterprise. This casts some doubt in my mind as to whether the enterprise will remain viable in the foreseeable future. Although the Framework is silent on this particular point, it is expressly required by LP Policy H4, and the Planning Practice Guidance⁴ (the PPG) makes reference to the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.
15. In reaching these conclusions, I have had regard to the caselaw⁵ and appeal decisions⁶ and referred to by the appellant. However, each proposal has to be assessed on its own individual merits. In this particular instance, it appears that Mr and Mrs Roberts still play an active role in the management of the business and accordingly draw a salary from the business. Whilst I understand

⁴ Housing needs of different groups (Paragraph: 010 Reference ID: 67-010-20190722).

⁵ Keen v Secretary of State for the Environment and Aylesbury Vale District Council ([1996] JPL) and JR Cussons and Son v Secretary of State for Communities and Local Government ([2008] EWHC 443).

⁶ APP/W9500/A/08/2087370, APP/V3310/A/09/2118524, APP/N6845/A/09/2106131.

that their son works as the site's manager, I have not been presented with any substantive evidence demonstrating that he has taken majority control of the farm business. Though this may be a transitional situation, there are no reasons why, currently, the tasks which require a permanent presence on site could not be carried out by the occupiers of the existing dwelling. Accordingly, I find that the proposal lacks justification for an additional dwelling for a rural worker.

16. I have also taken into consideration the fact that the appellant's mother may move to the existing dwelling in the near future, and that her son may also have a family of his own. However, whether a dwelling is essential depends primarily on the particular needs of the enterprise rather than the personal circumstances of anyone concerned.
17. For the foregoing reasons, and having regard to the evidence before me, I am unable to conclude with any certainty that there is a proven and essential business need for an additional dwelling to permanently accommodate a rural worker on site. The proposed development would therefore conflict with LP Policy H4 and paragraph 79 of the Framework.

Other Matters

18. The appeal site lies within proximity to the Exe Estuary Special Protection Area (SPA) and Ramsar site, and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SPA. It is accepted that the proposal would have, in combination with other plans and projects, a likely significant effect on these internationally designated sites, by reason of the increased recreational pressure which additional residential development places on these sensitive areas. In accordance with the South-East Devon European Site Mitigation Strategy⁷, residential development proposals are required to make a financial contribution towards mitigation measures, which are normally secured through funding from the Community Infrastructure Levy (CIL) and financial contributions.
19. As the appeal is being dismissed on other substantive grounds, this is not a matter which needs to be addressed further here. However, had the development been considered acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment to ensure the proposal's compliance with Habitats Regulations, in light of the *People over Wind*⁸ decision by the Court of Justice of the European Union.

Conclusion

20. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

⁷ 29 April 2014.

⁸ *People over Wind*, Peter Sweetman v Coillte Teoranta, Case C-323/17.

APPEARANCES

FOR THE APPELLANT:

James Whilding	Planning Consultant, Acorus
Cheryll Roberts	Appellant, Grindlebrook Farm
Stephen Roberts	Grindlebrook Farm
Adam Roberts	Grindlebrook Farm

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Digby	Planning Officer, East Devon District Council
Gareth Stephenson MRTPI	Planning Officer, East Devon District Council

PLANS

A Copy of Plan Ref.B 'Combined Plans', dated 02.01.19