

Appeal Decision

Hearing Held on 28 January 2020

Site visit made on 28 January 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2020

Appeal Ref: APP/X1118/W/19/3239842

Gandies, Road To Branton Burrows Car Park, Branton EX33 2NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R W Avery, R W Avery & Son against the decision of North Devon District Council.
 - The application Ref 65991, dated 7 December 2018, was refused by notice dated 25 April 2019.
 - The development proposed is described as one agricultural workers supervisory dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for one agricultural workers supervisory dwelling at Gandies, Road To Branton Burrows Car Park, Branton EX33 2NU in accordance with the terms of the application, Ref 65991, dated 7 December 2018, subject to the conditions set out in the schedule to this decision notice.

Procedural Matters

2. The planning application was made in outline with all matters reserved for future consideration. However, prior to the Council's decision, details of the means of access and the scale and appearance of the proposed development were provided by the appellant. Matters reserved for future consideration therefore relate to layout and landscaping only, and I have considered the appeal on this basis.
3. On 6 January 2020, North Devon Council adopted the Rural Workers' Dwellings, Supplementary Planning Document (SPD). Amongst other aspects, it elaborates and provides guidance on how to interpret and respond to the policy requirements regarding rural workers' dwellings in the North Devon and Torridge Local Plan 2011-2031 (NDTLP, adopted October 2018). Considering that the SPD is a material consideration, the Council provided me and the appellant with a copy at the Hearing. I have taken it into account in reaching my decision and the appellant was given the opportunity to review and comment on it during the Hearing.

Main Issues

4. The main issues are:
 - Whether there is an essential operational need for an additional dwelling for a full-time worker to be resident at the agricultural holding; and

- Whether the proposed development would harm the character and appearance of the surrounding area, with particular regard to the Undeveloped Coast and Estuary.

Reasons

Essential operational need

5. The well-established agricultural holding, known as Gandies, produces a range of high-value crops such as cauliflowers, potatoes, broccoli and cabbage. The holding includes three farm buildings/barns, an agriculturally-tied dwelling and approximately 24 hectares (60 acres), including land scattered across Branton Great Field and the marshes. At peak times, work on the farm involves significant and intensive manual labour, with much of the frequent planting and daily harvesting done by hand. Although the crops can be grown throughout the year, I heard at the Hearing that they are not particularly hardy and are susceptible to, amongst other aspects, disease, pests and weather changes.
6. The main parties agree that the business requires a total of 4.08 workers, as per the calculations in the appellant's Agricultural Appraisal. At present, the business employs: two full-time workers, the appellant and his son, Mr George Avery, who I heard at the Hearing work well-beyond an average 37 hour week; Mrs Avery on a part-time basis; and three seasonal workers who work weekdays between mid-May to October. Although the Averys currently all live at Gandies, the son is of an age where he now wishes to live independently and move out of the family home. However, with him working full-time on the farm, including at unsocial hours, it has been put to me that he needs to continue residing on the agricultural holding in order for the business to continue operating at its current level. With the appellant getting older, Mr George Avery is also increasingly responsible for the running of the enterprise.
7. Various work involved in running the farm, such as planting, harvesting and general maintenance, can be done during the day. However, the existing enterprise involves various activities which occur at unsocial hours. Amongst other aspects, this includes the loading of produce onto lorries often very early in the morning, regular night-time lamping patrols for animals such as rabbits, overnight irrigation, security checks, flood clearance work, and responding to the intrusion of livestock and to geese landing on fields.
8. Some work on the farm may also not necessarily require more than one person. However, I heard at the Hearing that various activities do require two workers. This includes planned work, such as the loading of produce on to lorries and the safe moving and operating at night of large irrigation machinery between fields during dry summer months. It also includes unexpected incidents, such as fixing high-pressure irrigation equipment, resolving livestock intrusions, and the clearing and/or digging of ditches to prevent fields flooding.
9. The emergency incidents, as referred to in the SPD, can occur with little or no notice and require prompt action in order to avoid or reduce significant damage or, in the worst case, the entire loss of a crop. Although such events may not occur on a daily or particularly frequent basis, they do occur, pose an on-going risk and require two workers to be readily available throughout the day and night. Responding to such events is also likely to require use of machinery and equipment located in the farm buildings before attending the incident.

10. The Council did not dispute at the Hearing that various activities on the farm do require two workers. However, it has been put to me that the existing dwelling could fulfil the emergency requirements of the enterprise. It is also suggested that some activities that occur unexpectedly and at unsocial hours could be avoided by general daytime maintenance – such as maintaining fences, machinery and drainage ditches – and the installing of a permanent irrigation system. It is on this basis that the Council queries whether two workers need to be on call and work unsocial hours and thus whether there is an essential operational need for an additional dwelling at Gandies.
11. Regular maintenance of the holding and equipment is clearly necessary and I heard at the Hearing that it is part of the overall work involved in running the farm. However, it seems to me that even well-maintained equipment and machines can break down without warning. Although the appellant can and does maintain fences, there is no control over boundary treatment on other land, and Braunton Great Field is unfenced and includes various public rights of way. It is therefore not possible to entirely prevent livestock and people and their dogs accessing the holding. Although weather forecasting is often reasonably accurate, it is only a forecast and the local environment and weather patterns, combined with increasing extreme weather due to climate change, means that damaging weather can occur with little notice. With some of the holding scattered across marsh land and with public drainage works apparently sometimes being limited, unexpected flooding cannot be entirely avoided through general maintenance and would be likely to damage the appellant's crops without swift action. Although a permanent irrigation system may avoid the need to move irrigation equipment at night, the appellant indicated at the Hearing that such a system would not be economically viable for the business.
12. With the appellant and his son both currently living at Gandies, the needs of the enterprise, including work at unsocial hours and responding to emergency requirements, are currently being met. However, Mr George Avery has got to an age where he now wishes to move out of the family home and live independently. Were he to move away, the evidence before me indicates that the requirements of the farm, including planned and emergency work which occur at unsocial hours and which require two people, would not be met by only the one full time worker – the appellant – living in the existing dwelling.
13. It has been put to me that the accommodation needs could be met by existing accommodation in the surrounding area. I have little written evidence regarding the availability of such accommodation. However, the appellant confirmed at the Hearing that no dwellings in the immediate vicinity of the farm buildings at Gandies are currently available and that other accommodation, such as in Braunton, commands a premium and is unaffordable to a rural worker. Off-site accommodation, except in the immediate vicinity of the farm buildings, would also be likely to delay response times to unexpected incidents, with Mr George Avery having to travel to the farm buildings to collect the necessary equipment and meet up with the appellant when two workers are required. The additional travel time involved would extend response times, and this could result in potentially significant additional damage and increased loss of crops to the detriment of the enterprise. Accordingly, even if accommodation in Braunton were available, affordable and had sight of the holding's land, such accommodation could not reasonably be described as suitable for a rural

worker who is required to be on the holding at various times during the night and early morning and who needs to respond quickly to unexpected incidents.

14. It is likely that alternative accommodation away from the holding would mean that Mr George Avery would also be less able to assist with other matters, such as the fire risk from growing seed potatoes, and deterring thefts and aiding security matters through the permanent on-site presence of him and an additional dwelling. These aspects are not determinative in their own right in demonstrating an essential operational need for an additional rural worker dwelling in this instance, as per paragraph 3.9 of the SPD. However, they are additional benefits of the proposed development compared to the son living away from Gandies and thus being removed from current happenings on the farm. The potential for increased use of monitoring systems and CCTV do not lead me to a different conclusion. While the proposed dwelling would not have full sight and sound of the entire holding, it seems to me that a rural worker would also be more likely to hear and see livestock and other animal intrusions if they were living on the holding.
15. With the amount of activity required at unsocial hours, it would not be safe or realistic to expect a single person to be readily available to work at all times of the day and night and cover the necessary hours alone. Various aspects of the enterprise also require two workers to be available at unsocial hours to deal with planned activity and emergency situations, and such events cannot be entirely avoided through general maintenance. If Mr George Avery were to decide to move away and no longer live with his parents at Gandies, the essential operational needs of the farm would not be met. With only one full time worker living on the site, it is likely that emergency incidents would also be dealt with less promptly, increasing the likelihood and frequency of more extensive crop damage or loss. Accordingly, and for the above reasons, I conclude that there is an essential operational need for an additional dwelling for a full-time worker to be resident at the agricultural holding.
16. I therefore find that the proposed development accords with NDTLP Policy DM28. Amongst other aspects, this supports rural worker accommodation in the countryside where an essential operational need for a full time worker is demonstrated and the accommodation need cannot be met by other means.

Character and appearance

17. Set within a rural environment containing limited built form, the site is located within the Heritage Coast and Estuary. Although the surrounding area is generally flat, the site is not particularly visible in the locality due to existing hedgerows and trees and the screening presence of existing buildings, including the current dwelling and agricultural barns at Gandies.
18. The appeal proposal would lead to an increase in built form in the locality. However, the proposed dwelling would be of a similar size and appearance to other nearby dwellings, the access would utilise part of an existing access onto the farm, as per paragraph 3.28 of the SPD, and parking for the dwelling could utilise an existing area of hardstanding. Conforming with the SPD's guidance regarding a visual relationship with farmstead buildings, the proposed dwelling would also be located relatively close to the existing built environment of Gandies and would be read as forming part of that context.

19. The Council's Officer Report sets out that the proposed dwelling would be of an appropriate form and size, would reflect its countryside setting and would be well screened from the public realm. From the evidence before me and from my observations on my site visit, I concur with this view. As I have found that the appeal proposal would also serve an essential operational need for the agricultural holding, it also cannot reasonably be located elsewhere.
20. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area, with particular regard to the Undeveloped Coast and Estuary. I therefore find that it accords with NDTLP Policy ST09. Amongst other aspects, this seeks to protect the undeveloped character of the Heritage Coast and supports development within the Undeveloped Coast and Estuary area which does not detract from its character and appearance and is required because it cannot be reasonably located outside of the protected landscape.

Conditions

21. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and to ensure that details are submitted to and considered by the Council where relevant.
22. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. The conditions covering reserved matters are necessary to secure details of the outstanding reserved matters prior to the development proceeding. However, following discussion with the main parties at the Hearing and considering the guidance in the SPD, I have amended the relevant time limits to one year for submission of the reserved matters application and one year for commencement of development following approval of the last reserved matter. This is reasonable and necessary given the need for the proposed development.
23. A condition covering parking is necessary to ensure that sufficient parking provision is available for the dwelling. The reference within the condition to the design, layout and appearance of the parking provision is necessary in the interests of clarity and certainty. I have also imposed an occupancy restriction condition on the basis that the dwelling is needed to serve the essential operation of the agricultural holding, as per by NDTLP Policy DM28.
24. The PPG indicates that conditions removing permitted development rights should only be used in exceptional circumstances. However, such a condition is necessary and reasonable in this instance in order to ensure that the dwelling remains of a size appropriate to the functional requirement of the holding and affordable to agricultural workers, and does not harm the character and appearance of the surrounding area, including the Heritage Coast and Estuary.

Conclusion

25. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) One garage/space for hardstanding and one casual parking space shall be provided for use by the development hereby permitted prior to its occupation and once provided shall not be used for any purpose other than the parking of vehicles. The design, layout and materials of construction and external appearance of this provision shall be included in the Reserved Matters application.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan; block plan; land ownership plan; proposed floor plan and elevations drawing number 2456-01 draft 02.
- 6) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990 (as amended) or a dependant of such a person residing with him or her, or a widow or widower of such a person.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Class A of Part 1, Schedule 2 of the Order shall be constructed other than those expressly authorised by this permission without planning permission having first been granted on an application made for these purposes.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Mr Andrew Heywood

Robert H Hicks and Co,
appellant's agent

Mr George Avery

Son of appellant

Mrs Sally Avery

Wife of appellant

FOR THE COUNCIL:

Mrs Mary Poole

North Devon Council,
Senior Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Rural Workers' Dwellings, Supplementary Planning Document (SPD), adopted January 2020.