



Appeal Decision

Hearing Held on 22 January 2020

Site visit made on 22 January 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2020

Appeal Ref: APP/M0933/W/19/3235528

Highfield Farm, Haverflatts Lane, Ackenthwaite, Cumbria LA7 7DG

- 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 Robin Parsons against the decision of South Lakeland District Council.
 - The application Ref: SL/2019/0313, dated 17 April 2019, was refused by notice dated 1 July 2019.
 - The development proposed is a farm worker's dwelling to serve Highfield Farm.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding landscape; and
 - Whether there is there an essential need for a rural worker to be permanently resident on, or near, the site.

Reasons

Character and appearance

3. The appeal site is part of a larger agricultural field, lying to the south east of Haverflatts Lane, a single track country road bounded by hedgerows for much of its length. The site is adjacent to a small group of agricultural buildings used in connection with the current agricultural operation at Highfield Farm and accessed from Haverflatts Lane. The surrounding area is largely comprised of a landform of low drumlin hills with small settlements located in the valleys between them. Roads and lanes also broadly follow the line of the valleys. Beyond the settlements, small groups of farm buildings or former farm buildings are scattered though the landscape. The landscape is generally one of small to medium sized fields with hedgerow boundaries containing some larger trees. There are some small groups of trees and also an area of plantation woodland to the north of the appeal site, on the opposite side of the lane. The appeal site is located on the lower slopes of Beggarside Hill, which is

one of the higher hills in the area. The dwelling presently used in connection with Highfields Farm is located close to the summit of this hill.

4. Policy CS8.2 of the South Lakeland Core Strategy 2010 (the Core Strategy) expects, among other matters, that new development be informed by, and be sympathetic to, the distinctive landscape types in the district; and that their location, scale, design and materials will protect and, where possible, enhance the special qualities and local distinctiveness of the area. Although the Core Strategy predates the publication of the National Planning Policy Framework (the Framework), the requirements of Policy CS8.2 are broadly consistent with the requirements of the Framework to achieve good design and to conserve and enhance the natural requirement, and can be given considerable weight.
5. Core Strategy Policy CS7.4, regarding the rural economy, states that favourable consideration will be given to employment related development that is not detrimental to the character and appearance of the landscape or settlement. Whilst the proposed dwelling is for a rural worker, its primary purpose would be as a dwelling house and it would not be an employment use *per se*. Therefore, I do not consider that this provision of Policy CS7.4 is relevant to the proposed development
6. Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document 2019 (the DMP), when taken together, require that new development responds to its locational context, promotes local distinctiveness and makes a positive contribution to the sense of place in its location.
7. I saw when I visited the site and surrounding area that, beyond the built up area of Milnthorpe, there is currently only a small amount of built development on Haverflatts Lane. Despite its proximity to Heversham, Milnthorpe and Ackenthwaite, the area has a very rural appearance and the dominant characteristic is the openness of the countryside. In addition to the small, close knit, group of agricultural buildings at Highfield Farm, to the south west of the appeal site there are two small groups of buildings, both former farm complexes that have subsequently been converted to entirely residential use. Between these two groups of buildings is a modern agricultural barn.
8. Although the appeal proposal would use materials that are consistent with other buildings in the area and the proposed dwelling has taken clear design cues from local vernacular architecture, I observed during my site visit that, elsewhere, buildings are sited with the long axis either parallel or perpendicular to the road they are accessed from. The proposed new dwelling would have the long axis angled at approximately 45 degrees to the road and, due to this positioning on the site, would be inconsistent with the usual built form of the area. The submitted Design and Access Statement sets out that this arrangement is to facilitate access to the farm yard and provide surveillance of the farm yard and site entrance but does not explain why other possible orientations of the building, that are illustrated but were not adopted, would not provide equally convenient access to the farm yard or provide adequate surveillance.
9. The appeal proposal would extend built development into a further field fronting Haverflatts Lane, with the associated residential curtilage creating a new boundary. This would reduce the open character of the landscape and the new boundary would not be related to any existing landscape features. This

new boundary would be angled to reflect the long axis of the proposed dwelling, unlike other boundaries observed along the lane, which run perpendicular to it. As a result, the development would not be well integrated with the surrounding landscape.

10. The land on which the proposed new dwelling would be sited rises steeply away from the road which would increase the visual prominence of a two storey building and exacerbate the inconsistency with the prevalent built form. The existing farm buildings are located closer to the Lane than the other agricultural building present and the former agricultural buildings at Upper and Lower Haverflatts. This, in itself, has an effect on the perceived open character of the landscape, although I accept that this is a pre-existing situation. Nonetheless, the addition of a further substantial, two storey, building to this group would further erode the open character.
11. A Landscape and Visual Assessment (LVA) was submitted with the application. However, this only concludes on visual effects and does not consider effects on the landscape. From what I have read; from what I heard at the hearing; and from what I saw when I visited the site and surrounding area, the proposal would have an adverse effect on the landscape through the reduction in openness resulting from increased built development and introduction of residential curtilage. It would also result in the disruption of the regular pattern of field boundaries running perpendicular to the lane in the vicinity of appeal site that are characteristic of the landscape around Haverflatts lane. The combination of the rolling landform, open fields, low level of built development and narrow roads creates an open yet intimate landscape with a limited capacity to absorb change.
12. The LVA concludes that the appeal proposal would have some minor and moderate visual effects, mainly at close range. I would concur with these conclusions insofar as, whilst the proposed new dwelling would be located adjacent to a group of existing buildings, it would be as tall or taller than these. Due to its wholly different orientation to the adjacent farm buildings, this would increase the perceived prominence and visual effect of the building in the largely linear views along Haverflatts Lane. From the site visit, I am also of the view that the LVA underestimates the visual effects in longer views across the valley from the Public Right of Way footpath to the north east. This is located at approximately the same elevation as the appeal site with lower land between. Consequently, the appeal proposal would have a greater visual effect than suggested by LVA.
13. Taken together, these effects would be harmful to the character and appearance of the surrounding landscape which has a limited capacity to absorb changes. The proposed development would be a permanent building and, as a result, that harm would be lasting. Although the proposed hedge and tree planting on the new boundary would provide an element of screening, the appellant stated at the hearing that this would take in the order of ten years to become established. During this time the new building would be much more visible. This notwithstanding, tall screen planting would reinforce the incongruity of the new angled boundary.
14. I therefore conclude that the appeal proposal would cause harm to the character and appearance of the surrounding landscape. It would not comply with the relevant requirements of Core Strategy Policy CS8.2.

Whether there is an essential need

15. Highfield Farm is a small sheep farming enterprise with a flock of approximately 190 breeding ewes. It is proposed to introduce a second flock of a different breed of sheep that would eventually reach 75 breeding ewes. The farm is currently operated by the appellant's parents who reside in an existing dwelling on the landholding. This existing dwelling is not subject to any form of occupancy restriction. The appellant's parents are of an age where they wish to retire from active farming and the appellant is proposing to take over the farm business.
16. The appeal proposal would provide a new dwelling for the appellant and his wife to manage the business from. Policy DM15 of the DMP relates specifically to dwellings for workers in the countryside and sets out several criteria against which proposals will be assessed. These include, among others, that there is an existing functional need for the dwelling; the need relates to a permanent full time worker, that the business is financially sound and can demonstrate there is a clear prospect of remaining so; and that the functional need could not be met by an existing dwelling within the agricultural unit, or by other suitable accommodation nearby.
17. Paragraph 79 of the Framework states that isolated homes in the countryside should be avoided, unless there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at, or near, their place of work. It is not in dispute that the appeal proposal would be an isolated dwelling, employing the interpretation of 'isolated' in Braintree District Council v Secretary of State for Communities and Local Government, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610. Nor, is it suggested that Paragraph 79 of the Framework does not apply.
18. The Council accepts that there is an existing need for a worker to live on, or near the site, but considers that this functional need is met by the existing house, and that there is not an essential need for a second worker.
19. The appellant's position is that he is, ultimately, taking over the majority control of the farm business and will require accommodation in order to do so. The Agricultural Justification Statement submitted with the application states that the appellant's presence will facilitate the phased retirement of his father from the business and that the proposal is not seeking to justify that there is a need for a second worker. The appellant's parents do not wish to relinquish the present house, which is not tied to the agricultural use, due to health and financial reasons.
20. There is little or no guidance on how the words 'taking over majority control' in Paragraph 79 of the Framework are to be interpreted, although it is accepted that these words were included in the 2018 revision of the Framework to accommodate business succession and that retired rural workers may wish to continue living in their present home. Agricultural occupancy conditions frequently allow for occupation by persons last employed in agriculture. Although there was no evidence put to me of any legally binding transfer or succession plan, from what I have read and from what I heard at the hearing, I have no reason not to accept the appellant's statements that he and his wife intend to take on the operation of the farm.

21. In these circumstances it is relevant to take account of the judgment in *Keen v Secretary of State for the Environment and Aylesbury Vale District Council* [1996] JPL 753, where it was found to be unreasonable to expect a farm worker to relinquish his property on retirement to provide accommodation for the functional need on the holding. Whilst the appellant's parents may be able to undertake those tasks that require a continuous presence, there is no indication of how long they would be able to continue to do so. This notwithstanding, the appellant currently resides a considerable distance from the farm which would raise practical difficulties in being involved in the day to day operation of the farm.
22. Whilst it is not uncommon for several generations of a farming family to live under the same roof, from the evidence, the existing farmhouse does not have sufficient accommodation to meet the needs of both families. At the hearing, the Council indicated that it would be amenable to considering an extension to the existing house in order to provide accommodation for the appellant and his family. The Council also indicated that it did not consider that such an extension would engage the requirements of Policy DM15. Although Policy DM15 requires it to be shown that the functional need cannot be fulfilled by an existing dwelling on the site, it does not specifically require that the potential for extending an existing dwelling be considered.
23. No design studies have been carried out in respect of a possible extension to the existing dwelling. However, the Council's appeal statement sets out potential alterations to provide additional accommodation. I accept that this approach may be able to provide accommodation for the replacement agricultural worker which, in purely numerical terms, is for only one person. Although the requirement of both Policy DM15 and the Framework is to demonstrate that there is an essential need to accommodate a rural worker, it must also be considered that the agricultural worker, whomsoever they may be, might be single, or married, or married with children. The Council's suggestions also do not elaborate on how any hypothetical sharing of facilities with the existing house would work in practice. The size of the accommodation should be appropriate to the essential need and not unnecessarily large, but there is no policy requirement that it should be limited to accommodating only one person.
24. It was apparent from the site visit that the existing house occupies a prominent skyline location on raised ground visible from both Haverflatts Lanes and the main road to the east leading to Ackenthwaite. There is no evidence that would demonstrate that extending the existing house in a manner to accommodate the appellant and his family, whilst still meeting the needs of the present occupiers, would have a lesser visual impact than the appeal proposal or meet the requirements of other policies in the development plan. In the context of the above, I am not persuaded that the extending or altering the existing dwelling is a practical alternative.
25. There is also an existing brick building within the farmyard area adjacent to the appeal site. The council accept that this building is potentially too small and may need extending if it were to be used as living accommodation. I saw during the appeal site visit that this building is currently used for the storage of materials and equipment used on the farm which would necessitate the construction of a replacement storage building if it were to be converted.

26. I recognise that, particularly, during lambing season, there will be a need for a worker to be present at the site outside of what would be considered normal working hours. Whilst both Policy DM15 and the Framework refer to an essential requirement to live at or near the place of work, neither defines what is meant by 'near'. Both parties have identified that there are available properties of equivalent size to the proposed new dwelling in the vicinity of the appeal site.
27. When I visited the surrounding area, both before the hearing opened and after the accompanied site visit, I had the opportunity to make the journey to the appeal site from both Milnthorpe/Ackenthwaite and Heversham, which are the closest settlements where properties were identified. The journey time by car in each case was approximately 10 minutes. Whilst it would no doubt be more convenient for the worker involved in these tasks to be based immediately adjacent to the buildings where the ewes are housed during the lambing period, no activities have been identified in the submissions that are specifically time critical and the journey times to the site would not be excessively long.
28. The purchase prices of nearby properties, with a mortgage, would be unrealistic based on the typical rural workers wage cited by the parties. The limited financial information provided in respect of the present farm income and future planned operations indicates that the profit element is likely to remain relatively low. The independent Report on a Proposed Permanent Rural Worker's Dwelling by AG & P Jackson Chartered Surveyors states that there would be equity from the sale of the appellant's current property that would be used to finance the construction of the proposed new dwelling. Whilst this could be used towards the purchase price of a property near the appeal site, there is no compelling evidence that would show that the purchase of a nearby property would be achievable.
29. The limited financial information submitted shows that the existing farming business is making a small profit and could be considered viable. The Council question the future viability of the business and the AG & P Jackson Report states that to remain viable the annual income of the business needs to be increased, by continuing to increase livestock numbers or by introducing diversified income streams. The appellant proposes to introduce a new flock of a different breed of sheep for both wool and meat production and advised at the hearing that the submitted Business Plan has been accepted by a bank as the basis of a loan to establish this enterprise. The Business Plan predicts that this will increase the farm income to a stable higher level after approximately five years, and although the Council rightly point out that this enterprise has not yet been set up, it has not challenged the figures in the Business Plan. On this basis, I am satisfied that there is a clear prospect of the business remaining profitable.
30. Drawing these strands together, it is common ground that there is an essential functional need for a worker to live at or near the site. This is the key test set out in both DMP Policy DM1 and the Framework. Whilst there is an existing dwelling that is owned and occupied by the current operator of the farm, this is not tied to the agricultural unit by a planning condition. This dwelling would no longer be available following the retirement of the current farmer. The appellant and his family would take over the full time operation of the farm, although there would be a short period of transition. I have found that there would be unresolved practical difficulties in altering the existing house, taking

into account the accommodation needs of the existing occupiers and the appellant's family. Consequently, in order to allow for succession in the business there would be a need for accommodation on or near the site.

31. The evidence indicates that there is similarly sized accommodation to the appeal proposal available in nearby settlements that within a short distance of the appeal site and no time critical operations have been identified that would make the journey times unacceptable. This notwithstanding, based on the evidence, at this time, due to property costs, the purchase of a house in a nearby settlement is not a practical option. Although financial matters are not a part of the test for an essential need, Policy DM15 and the Planning Practice Guidance both raise this as a consideration. Based on the evidence, the enterprise will remain viable in the future.
32. Core Strategy Policy CS7.4 in respect of the rural economy is permissive of proposals that would support sustainable farming. The proposal would not conflict with this part of Policy CS7.4.
33. I therefore conclude that there is an essential need for a rural worker to live on, or near, the site. The proposal would comply with the relevant requirements of DMP Policy DM15, Policy CS7.4 of the Core Strategy, and the Framework.

Planning Balance

34. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
35. I have found that the appeal proposal would cause lasting harm to the character and appearance of the landscape surrounding the appeal site and ,as such, would not comply with a relevant policy in an up to date development plan. Nonetheless, I have also found that there is an essential need for a rural worker to live, on or near, the site. The Framework seeks to support a prosperous rural economy through the development and diversification of agricultural and other land-based rural businesses. The proposal would also allow for the farm business to pass onto the next generation of the family. These factors weigh in favour of the proposal. However, the Framework also expects planning decisions to achieve a high standard of design and recognise the intrinsic character and beauty of the countryside. There is no substantive evidence that indicates that the dwelling and farm buildings must be co-located, or that the proposed dwelling could not be designed and sited in a manner that has a lesser effect on the landscape. The essential need would not, therefore, outweigh or overcome the harm that the proposal would cause to the character of the landscape.

Conclusion

36. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Parsons	Appellant
Mrs Z Parsons	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms B Fettis	Planning Officer
Mr N Howard	Development Management Team Leader
Mr A Jackson	A G & P Jackson Chartered Surveyors

DOCUMENTS SUBMITTED AT THE HEARING

Signed Statement of Common Ground