



Appeal Decision

Hearing held on 11 May 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2020

Appeal Ref: APP/D0840/W/19/3241270

Penleaze, Hobbacott Lane, Marhamchurch, Bude EX23 0ET

- 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 Gardener against the decision of Cornwall Council.
 - The application Ref PA19/03879, dated 1 May 2019, was refused by notice dated 18 July 2019.
 - The development proposed is an agricultural tied dwelling.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Gardener against Cornwall Council. That application is the subject of a separate Decision.

Procedural Matters

3. The planning application reference stated on the appeal form differs from that on the decision notice provided. The Council and appellant have confirmed that the correct application reference is that given in my heading above.
4. The Hearing was a virtual event that took place by way of a video conference. I am satisfied that all relevant parties with an interest in the case were able to fully participate.
5. Before the Hearing, I was provided with photographs of the appeal site. These were discussed at the event and I sought the parties' views as to whether it was necessary for me to carry out a physical site visit given the nature of the determinative issue as set out below. I have taken account of their responses and, in light of the main issue, I am content that a physical site visit is not necessary in this case.
6. The application was made in outline with all matters reserved for subsequent consideration.

Main Issue

7. The main issue is whether there is a need for the dwelling at the appeal site to serve the needs of an agricultural enterprise, having particular regard to the agricultural activities undertaken and the ongoing financial viability of the enterprise.

Reasons

8. The appellant currently operates two farming businesses from Buttsbear Cross Farm ('Buttsbear'), across land that includes the appeal site. One business trades as a partnership and the appellant is a sole-trader of the other. The appellant wishes to subdivide the operation, selling the partnership business along with Buttsbear Cross Farmhouse, associated land and buildings. He intends to continue the sole-trader businesses, basing that operation at the appeal site, known as Beeston Farm ('Beeston').
9. An appraisal has been undertaken clearly setting out the appellant's future business operations. As a continuation of an existing business, it would not be a new enterprise. However, it was clarified at the hearing that it would differ from the existing sole-trader business. In effect, the future enterprise would include agricultural activities undertaken by both existing businesses, albeit on a smaller scale. Therefore, whilst the subdivision of an agricultural enterprise can often generate the need for a new dwelling, there would not be a clean break of the appellant's two existing businesses along existing operational lines.
10. There is no dispute between the Council and appellant that, once established at the appeal site, there would be a need for a dwelling to ensure the effective operation of the agricultural enterprise described in the appraisal. However, the operation, on a larger scale, is already successfully run from Buttsbear, with some elements of the operation already undertaken at Beeston. Whilst provision of the dwelling proposed would allow for better supervision and the further development of activities at Beeston, there is no compelling evidence that the appellant must relocate his entire farming operation to Beeston for the successful operation of the enterprise.
11. When the Council determined the planning application, Buttsbear was in the process of being sold and there appears to have been no dispute that another farmer would have taken a majority control in the overall operation, requiring the agricultural occupancy restricted farmhouse and buildings at Buttsbear for its proper operation. This may be why the Council made no reference to the existing farmhouse in its reason for refusal, but I must base my decision on the evidence presented to me now.
12. It was suggested at the Hearing that the previous sale had fallen through, due to delays following an earlier refusal of permission for a new dwelling at Beeston and the appellant's resulting inability to vacate the house. Whether or not that is the case, I have no clear evidence of any alternative sale or whether Buttsbear is being marketed now, the effect being that it is still, at the present time, in the ownership of, and occupied by, the appellant.
13. I understand that the appellant is looking to scale back operations to a business that can be sustained on less land and that, if run from Buttsbear, the smaller future operation would mean that there were considerable vacant and redundant buildings. I also acknowledge the appellant's personal reasons for wishing to sell Buttsbear, including to build a smaller house more suited to a couple, and that Beeston is his preferred location. However, those personal circumstances and desire to reduce the scale of operations do not equate to an essential agricultural need.

14. It may not be for the Council to dictate how a business should be run or which parcels of land should be used for what purpose. However, as suggested by the Council at the Hearing, there is nothing to suggest that it is anything other than a personal, as opposed to a business, decision to sell Buttsbear. I understand that the absence of a new dwelling may continue to frustrate the sale of Buttsbear but, whilst it remains available, it is a material consideration and no business need has been demonstrated for a relocation to Beeston.
15. Whilst the need for a dwelling, now and in the future, is accepted, Policy 7 of the Cornwall Local Plan 2010-2030 only permits new homes in the open countryside where there are special circumstances. These include, for agricultural workers, where there is up to date evidence of an essential need of the business for the occupier to live at the specific location. As set out above, the evidence does not indicate the need for a new home, or that that it is an essential need of the business for the occupier to live at Beeston.
16. It has been suggested that the existing operations are of sufficient scale to support a second agricultural dwelling. It is not necessary, in this regard, to have a planning permission in place for such a fallback to be a material consideration. However, although both the appellant and his wife operate the existing enterprises from the house at Buttsbear such that there has been no need for other, separate accommodation, I have little substantive evidence as to the need for a second dwelling.
17. In any event, even if I were to accept that it may be possible to demonstrate a current need for a second dwelling, the appellant's clear intention is to downsize the combined enterprise. That undermines any argument in terms of essential need going forward.
18. Alternatively, if the partnership business were sold without the existing dwelling, then an incoming farmer could also apply for a new dwelling. However, the need for such would be based on their proposed operations and any application would be assessed on its own merits at that time. Therefore, I attribute very little weight to any fallback arguments in this regard.
19. The Council raised a number of concerns in respect of viability. In particular, I was directed to fluctuations in the value of stock, which would impact upon the profitability over time. However, there is no substantive evidence that the margin between purchase and sale prices would be significantly different to that projected in the budget forecast.
20. Effects on future farming subsidy payments have the potential to have a more significant effect. I understand that current subsidy arrangements are to be phased out. However, whilst neither party could give any indication of what future subsidy levels may be, there is no substantive evidence that some subsidy would not be available. Therefore, whilst the projected overall annual cash surplus would be small, a significant fall in subsidy would be required to result in an unviable enterprise.
21. The Council's other concerns over the future budget would have a smaller effect on viability. However, accepting that the budget gives a reasonable degree of confidence that the enterprise will remain viable for the foreseeable future does not overcome my earlier concerns about need.

22. As such, with regard to the above, I find that the evidence does not demonstrate the necessity for a new dwelling to ensure the effective operation of an agricultural enterprise. The proposal, therefore, conflicts with LP Policy 7. There is no particular evidence of support from other policies, so I find that the proposal conflicts with the development plan read as a whole. The absence of need means that there is no support from Paragraph 79 of the National Planning Policy Framework and there are no other material considerations before me that indicate a decision otherwise than in accordance with the development plan.

23. Therefore, the appeal is dismissed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Amanda Sutherland LLB. (Hons) PG Dip LPC
Graham Leaver FBIAC

FOR THE LOCAL PLANNING AUTHORITY:

James Holman MRICS MRTPI FAAV – Principle Development Officer
Emma Venning – Development Officer