The Planning Inspectorate

Appeal Decision

Hearing Held on 13 October 2020

Site visit made on 14 October 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 05 November 2020

Appeal Ref: APP/D0840/W/20/3253885
Peartree Farm, Trannack, Helston TR13 0DQ

- 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 N Thurley against the decision of Cornwall Council.
- The application Ref PA19/04929, dated 28 May 2019, was refused by notice dated 11 December 2019.
- The development proposed is a proposed agricultural worker's permanent dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposal would meet an essential need for a rural worker to live permanently at the appeal site, having particular regard to the financial viability of the rural enterprise and to the effect of the proposal on the character and appearance of the surrounding area.

Reasons

3. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030[1] (the Local Plan) sets out the strategy for the delivery of housing across Cornwall and growth is centred on the named, larger settlements within the county. The appeal site comprises agricultural land and buildings which are located outside of the nearest settlement at Coverack Bridges and, accordingly, the exceptions with regards infill, rounding off and use of previously developed land within settlements as provided under Policy 3 of the Local Plan, do not apply to the appeal scheme.

4. The supporting text to Policy 7 of the Local Plan defines open countryside as being the area outside of the physical boundaries of an existing settlement where it has a clear form and shape. The appeal site is located outside of any settlement and, accordingly, the provisions of Policy 7 of the Local Plan apply to the appeal scheme. Amongst other matters, this policy supports housing proposals for agricultural workers where there is up to date evidence of essential need of the agricultural business for the worker to live at that specific location. In this regard, Policy 7 of the Local Plan reflects the provisions of paragraph 79a) of the National Planning Policy Framework (the Framework).

[1] Adopted November 2016

5. Neither Policy 7 of the Local Plan nor the Framework itself define what constitutes an essential need. The Council has referred to Annex A of Planning Policy Statement 7 as providing a useful guide in these respects. However, this document is no longer extant and accordingly carries no weight in the determination of this appeal. Nevertheless, Planning Practice Guidance does confirm that there are a number of considerations which may be relevant to take into account and which includes evidence of a functional need as well as the degree to which there is confidence that the agricultural enterprise will remain viable for the foreseeable future. I have had regard to the judgement in Embleton[2] as referred to by the Appellant. However, while this judgement made it clear that the Framework does not specifically require a financial test, it does not prevent financial information from being considered.

6. Therefore, in order to meet the essential need test of paragraph 79a) of the Framework it is reasonable to provide evidence of financial viability so as to reasonably demonstrate that a business is likely to endure in the long term, thereby minimising the risk of a dwelling becoming an isolated home in the countryside contrary to the intention of paragraph 79a) of the Framework.

7. The farm holding comprises approximately six acres at Peartree Farm, with additional land at Farms Common rented by the Appellant from a family member and which is approximately nine acres in area. The Appellant maintains a variety of livestock at these sites, including pheasants, partridges, turkeys, sheep and pigs. Whilst the main parties agree that there would be a functional requirement for approximately 1.14 full time workers at the enterprise as supported by the evidence, the Council has concerns over the financial viability of the agricultural enterprise.

8. The Appellant has put it to me that the business is financially viable and would continue to be so in the event that permission for a permanent dwelling was approved. In support of this position, I have been provided with profit and loss accounts details for the years 2017, 2018 and 2019. Furthermore, at the hearing the Appellant provided a copy letter from a Chartered Accountant which confirms agricultural income for the year ending 31 August 2020, before the deduction of costs and expenses. At the hearing, the Appellant confirmed that while submitted as part of the accounts for the automotive company which he also controls, the figures provided detailed the income and expenditure of the agricultural business alone.

9. In relation to the agricultural business, the provided accounts confirm that a profit was made in the preceding years. However, the Council contends that the figures provided did not include deductions in respect of depreciation, labour costs, professional fees, rent costs for the land at Farms Common, Council Tax or fuel costs which, once accounted for, would result in a loss being made by the enterprise for each of the years 2017, 2018 and 2019.

10. At the hearing and upon inspection of the accounts provided, it is apparent that deductions were made for fuel costs and professional fees relating to veterinary costs, haulage, slaughter and subcontracting costs. Depreciation had been accounted for, with the details provided also confirming that deductions were made for repairs and maintenance of equipment. While the profit and loss for each of the respective agricultural and automotive business interests were

[2] Regina ex parte Embleton PC and David Ainsley v Northumberland CC and Ivor Gaston [2013] EWHC 3631 (Admin)

separate, it is apparent from the records that payment of accountancy and legal professional fees in relation to the agricultural business were provided by the Appellant's alternative source of income.

11. Once the above costs had been deducted, for the years 2017 and 2018 the details provided indicated that the agricultural business made a loss. For 2019 the evidence indicates that a marginal profit was made after depreciation. However, the level of profit made during that year would not be likely to provide sufficient income to support the 1.14 full time workers which it has been agreed would be required for the agricultural business. Accordingly, it seems to me that, at present, a notable contribution towards the costs and expenses of the agricultural business is derived from other sources of income, and the agricultural business would not be able to provide an adequate level of income by itself, for the owner. This position does not appear to have changed for 2020, with the income provided by the agricultural business, and before any deductions are made, being comparable to that achieved in 2019.

12. Further to the above, the Appellant confirmed that the costs of construction for the proposed dwelling would come from private funding and would not require any external financing. It was also noted that the Farms Common Land, which a significant portion of the agricultural holding in terms of land area, is currently rented from a family member under what appear to be favourable terms.

13. I acknowledge the intentions of the Appellant to focus on the agricultural business, and that the costs of constructing the proposed dwelling and rental of additional land for the holding would require no external funding for himself. However, if I allowed the appeal the planning permission would run with the land and not the appellant, and circumstances can change with future owners of the proposed agricultural dwelling and site being unlikely to be in the same position, with the stand alone agricultural business needing to be profitable enough to meet the costs relating to the required rental of additional land, as well as providing sufficient income to enable repayment of any mortgage or funding needed to purchase the land and buildings.

14. I acknowledge that the enterprise has existed for a number of years based on the energy and care of the Appellant and his family, and I accept that profitability appears to be improving. However, it seems to me that the agricultural business is currently providing insufficient levels of income to meet all of its costs and expenses and would not appear to provide an adequate level of income by itself. While I note that projected figures of profit have been provided, these relate to other 'typical' holdings and do not directly relate to the specific proposal. Therefore, it has not been demonstrated that a permanent dwelling can be justified and supported by the enterprise in relation to the functional requirements of the business and there is, currently, sufficient doubt that the enterprise would remain viable by itself for the foreseeable future.

15. The application specifically relates to a proposed permanent dwelling. The Council has indicated that, given there are continued doubts regarding the long term financial viability of the enterprise, it would also not be appropriate to permit a temporary worker's dwelling at the site. In this respect, while I consider that a temporary dwelling could be provided and assist in supporting the Appellant's contention that the business is viable going forward, the

permission which is sought by the Appellant solely relates to a permanent building and I have no details of a non-permanent dwelling before me. Accordingly, I have not determined whether a temporary arrangement would be appropriate with regards to this appeal.

16. Turning to the Council's concerns regarding the impact of the proposed dwelling on the character and appearance of the surrounding area, I have been referred to the Cornwall and Isles of Scilly Landscape Character Study[3] (the LCS) which confirms that the site falls within Landscape Character Area CA10 Carnmenellis. The LCS describes the key landscape characteristics of CA10 as being an open elevated undulated granite plateau, boggy in places, with significant remains of mining and quarrying industry including mine engine houses and related structures and settlements. The area is described as having a dispersed settlement pattern, long views from elevated areas and with upland recently enclosed as small farms and miners' smallholdings.

17. Being outside the established built form of Coverack Bridges and given its agricultural use and surrounding hedgerow features, in character the appeal site represents part of the countryside and reflects certain characteristics of CA10.

18. Policy 23 of the Local Plan seeks to protect local distinctiveness and confirms that, where new development is permitted, it should protect and where possible enhance the natural environment. A similar approach is provided within Policies 2 and 12 of the Local Plan which, amongst other things, emphasise the need for proposals to maintain and enhance the special character of Cornwall and that designated and undesignated rural landscapes should be protected and conserved.

19. The proposed dwelling would be positioned within the site adjacent to an existing, substantially sized, agricultural barn which is simple in terms of its design and utilitarian appearance. By reason of its design, which includes a mixture of flat roof and mono-pitched roof elements more suited to an urban setting, the proposed dwelling would look out of place within the context of the rural surroundings and would be visually discordant when viewed alongside the simple form of the existing agricultural buildings at the site.

20. Whilst the appeal site is somewhat screened from views within the wider surrounding area due to high hedgerows, the proposed dwelling would be visible from the adjacent lane and from parts of the local public footpath network close to the site. Given the scale and design of the proposed unit, the rural appearance and identity of the appeal site would be eroded and domesticated by the new dwelling and associated paraphernalia. Consequently, the proposal would result in some harm to the rural setting of the area and its established landscape character and would conflict with Policies 2, 12 and 23 of the Local Plan.

21. Policy 27 of the Local Plan requires that all proposals provide safe and suitable access to the site for all people and minimise car travel. In respect of major developments, Policy 27 of the Local Plan also requires that proposals are located where use of sustainable transport modes can be maximised by prioritising safe access by walking, cycling and public transport to minimise car travel. The proposal is for a single dwelling and would not constitute major

[3] Published June 2008

development. No concerns have been raised with regards to highway safety and I saw on my site visit that vehicles emerging from the site would have sufficient visibility in both directions.

22. Paragraph 103 of the Framework, while seeking to promote sustainable transport, recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The proposal would likely result in less trips taken to and from the site on a daily basis when compared to the Appellant's current position, and while access to local bus stops would require travelling along a section of unlit lane, alternative modes of transport other than by private car would be available. Accordingly, I find the proposal would not conflict with Policy 27 of the Local Plan or would fail to accord with paragraphs 108 or 110 of the Framework.

23. In summary of the above, while I have found that there would be no conflict with Policy 27 of the Local Plan, for the reasons given I conclude that it has not been sufficiently demonstrated that the agricultural business itself will likely remain viable for the foreseeable future and that, therefore, the requirements of essential need have not been met. Furthermore, the proposal would be harmful to the rural character and appearance of the surrounding area. The proposal would conflict with Policies 2, 3, 7, 12 and 23 of the Local Plan and would fail to accord with the provisions of paragraphs 79 and 170 of the Framework.

24. The appeal scheme would contribute one additional unit towards local housing supply. There would be additional benefits in terms of employment opportunities during the construction phase and I acknowledge that it would be likely that future occupants of the proposed dwelling would make use of services and facilities across the area, thereby supporting the local economy. Cumulatively, I attach limited weight to these benefits in the determination of this appeal by reason of the scale of the proposal.

25. Against these matters, the appeal proposal would conflict with the development plan and the Framework when taken as a whole. The harm resulting from the conflict with the development plan weighs significantly against the proposal. The identified harm would outweigh the limited benefits of the proposal and would not accord with the environmental dimension of sustainable development. Consequently, the appeal scheme could not be considered to be sustainable development in the context of the Framework or in terms of Policy 1 of the Local Plan.

Other Matters

26. The proposed development would be within zone of influence of the Fal and Helford Special Area of Conservation, which is a European Protected Site. Whilst this has been noted in the Council's Officer Report and was discussed at the hearing, the Council did not include this matter as a reason for refusal. While an important issue, I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above, it does not alter my overall conclusion in relation to this appeal.

Conclusions

27. For the above reasons, the proposed development would conflict with the development plan and the Framework when taken as a whole. There are no

material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr N Thurley	Appellant
Mr M Flood	Insight Town Planning
Mr A Brown	Alan Brown Development Services Ltd

FOR THE LOCAL AUTHORITY

Mr J Holman	Cornwall Council
Mr P Gregory	Cornwall Council

INTERESTED PERSONS

1. Miss M Wannell	Partner of Appellant
2. Mr John Kelling MBE	Councillor for Breage, Germore and Sithney Electoral Division.

DOCUMENTS SUBMITTED AT HEARING

1. Joint note prepared by the Local Planning Authority and the Appellant relating to the Fal and Helford Special Area of Conservation.
2. Copy letter from Kitchen and Brown Chartered Accountants dated 8 October 2020.
3. Copy document relating to tenancy at Farms Common dated 9 February 2017.