Appeal Decision

Hearing Held on 25 November 2020

Site visit made on 26 November 2020

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

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref: APP/J9497/W/20/3257310
Harton Valley Farm, Lustleigh, Newton Abbot TQ13 9SF

- 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 John Hampton against the decision of Dartmoor National Park Authority.
- The application Ref 0539/19, dated 5 September 2019, was refused by notice dated 10 February 2020.
- The development proposed is the construction of new farmhouse.

Decision

1. The appeal is dismissed.

Procedural Matters

2. As confirmed at the hearing, I have amended the original description of development for use in the above header to reflect that as stated at section E of the appeal form, in the interests of accuracy and consistency.

Main Issue

3. The main issue is whether or not there is an essential need for a rural worker to live at the appeal site, with particular regard to the ongoing viability of the enterprise.

Reasons

4. The appeal site is situated in a rural location within Dartmoor National Park, and outside of the settlement at Lustleigh which is located approximately 1.5 kilometres to the southeast of the site. The agricultural holding extends to approximately 88.6 hectares with a further area of approximately 7.3 hectares being rented under a grazing licence. The livestock on the holding comprises a mix of breeding ewes, ewe lamb replacements, suckler cows and store cattle. Furthermore, the enterprise includes rearing bucket fed calves with the intention to rear approximately forty calves each in four separate batches throughout the year.

5. The Development Plan for the area comprises the Dartmoor National Park Authority (the DNPA) Core Strategy Development Plan Document (2008) (the Core Strategy) and the DNPA Development Management and Delivery Development Plan Document (the DMD).

6. The spatial development strategy is set out in Policy COR2 of the Core Strategy. Lustleigh is defined as a Rural Settlement, where small scale development serving the needs of the parish is acceptable. However, the appeal site lies in a countryside location, outside the village at Lustleigh. Outside Rural Settlements, Policy COR15 of the Core Strategy provides that, amongst other matters, housing development will be restricted to that serving the proven needs of agriculture, forestry and other rural business.

7. Policy DMD23 of the DMD sets out that residential development outside Local Centres and Rural Settlements would only be granted in exceptional circumstances, echoing paragraph 79 of the National Planning Policy Framework (the Framework), which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one of a number of circumstances apply.

8. With regards to the criteria for new buildings as provided under Policy DMD23 of the DMD, the phrasing of this Policy reflects superseded Planning Policy Statement 7 and Annex A to it, which is no longer national policy. This was superseded by the Framework which no longer refers to the functional and financial tests. Nonetheless, Planning Practice Guidance (the PPG) does confirm that there are a number of considerations which may be relevant to take into account with regards to rural housing and which includes the degree to which there is confidence that the agricultural enterprise will remain viable for the foreseeable future.

9. In respect of the criteria provided under Policy DMD23 of the DMD, it is common ground between the main parties that: there is no satisfactory existing building that could be converted, there is an established functional need for a worker to be available at most times, the accommodation needs relate to a full time worker, the need for accommodation cannot be met by another suitable dwelling and that the proposed building would be of a scale appropriate to the functional requirement of the enterprise.

10. Criterion (iv) of Policy DMD23 of the DMD provides that a new building will only be permitted where the enterprise has been established for at least three years, profitable for at least one, is currently financially sound and has a clear prospect of remaining so. In essence, this clause seeks to ensure that there is a realistic prospect of the functional need for the dwelling enduring and the DNPA are concerned that the information available does not presently demonstrate that the enterprise is currently financially sound and has the clear prospect of remaining so in going forward. This is important, given that the dwelling would be permitted as an exception to the normal policies of restraint over housing in the countryside of the National Park.

11. From the written submissions of the main parties and the verbal statements made at the hearing, I am satisfied that the enterprise, including the calf rearing element of the business, has been established for more than three years and therefore complies with the policy requirement in this regard. Furthermore, the evidence before me indicates that a small profit was made in 2015/2016 with a more substantial profit of £15555.00 being made during the period 2017/2018.

12. However, the level of profit made during those years would not be likely to provide sufficient income to support the 2.08 full time workers which it has been agreed would be functionally required for the agricultural business. Whilst

I acknowledge that the Appellant has assistance from family members and that many agricultural workers accept lower levels of income than standard minima, the level of profit would be below the national living wage for a single individual and this sits awkwardly with the justification that the enterprise generates a need for 2.08 full time workers.

13. Furthermore, and notwithstanding the above, the accounts details that have been provided indicate that a significant loss of £8811.00 occurred for the period 2016/2017, and this followed substantial losses for the period 2012 to 2015. No substantiated reasons had been given for the substantial and significant losses made during those periods, and the DNPA was concerned that the profit made in 2017/2018 was a consequence of differences in opening and closing stock values resulting in a singular profitable year which would not necessarily be replicated in later accounting periods.

14. At the hearing, the Appellant's representatives maintained that the profit made during 2017/2018 had not arisen from historical stock and that accounts and records for the proceeding periods showed that the profit made for 2017/2018 was not an isolated or extraordinary event. Whilst the verbal submissions made at the hearing in this regard are acknowledged, no substantive evidence, in the form of accounts, details of stock or movement records to support the view that the profit for 2017/2018 was part of an upward trend, has been provided.

15. Accordingly, while it is apparent that the enterprise has been established for more than three years and has generated a profit in at least one of those years, there is currently insufficient evidence before me that confirms and demonstrates that the enterprise can generate sufficient profit to sustain the living wages of the Appellant or the proposed dwelling going forward. In combination with the previous years' substantial and significant losses and without records or finalised accounts that confirm the profit from the period 2017/2018 was not an isolated event, there remains sufficient doubt in my mind that the enterprise is *currently financially sound and has a clear prospect of remaining so* (my emphasis) as required by Policy DMD23 of the DMD and in accordance with the details provided within the PPG.

16. It has been put to me by the Appellant that, following submission of a previous planning application[1], the appeal proposal complied with the financial assessment referred to in criterion (iv) of Policy DMD23 of the DMD. In that regard, the previous planning application was accompanied by an agricultural appraisal which the DNPA assessed and which concluded that whilst it had not been demonstrated that there existed a functional need for a worker to be on site most of the time, based on the information available at that time, there was no reason to doubt the financial viability of the business and the future profitability of the enterprise.

17. As noted above, it is now common ground between the main parties that there is a functional need for a worker to be available at most times. Nonetheless, and notwithstanding the above, confirmation of the financial viability of the business and the future profitability of the enterprise as part of the previous planning application, was based on a part completed set of accounts for the period ending 2018 which indicated that a net profit of £19590.00 would be achieved for that accounting period.

[1] Local Planning Authority Reference: 0042/18

18. However, once final accounts for that period had been submitted it was shown that the net profit for that period was adjusted to £15555.00 which, for the reasons given above, appears to be insufficient to provide living wages or sustain the proposed dwelling going forward. While I acknowledge the conclusion of the agricultural appraisal assessment in the previous planning application, this appears to have been determined with regard to a partial set of accounts and, in any event, I have determined this appeal based on the evidence that is before me and on its own merits.

19. In summary of the above, as there is presently insufficient evidence to conclude that the enterprise is currently financially sound and has a clear prospect of remaining so, the need for an isolated dwelling in the countryside for essential rural workers has not been demonstrated. The appeal proposal conflicts with Policies COR2 and COR15 of the Core Strategy and would conflict with Policy DMD23 of the DMD when taken as a whole. For the same reasons, the proposal would fail to accord with the provisions of the Framework with regards to isolated homes within the countryside.

20. I have no doubt as to the experience, dedication and commitment of the Appellant to his work, to the livestock in his care and to the farmed landscape of the National Park. However, these matters do not outweigh the protection from residential development generally afforded to the countryside.

21. The evidence before me as to the enterprise's financial position is limited, and it has, currently, not been sufficiently demonstrated that the proposed enterprise would have a reasonable prospect of financial viability and success sufficient to justify the proposed permanent dwelling. Given the dedication of the Appellant and by reason of the information that is before me, there does appear to be the potential for a financially sound business which could provide a reasonable profit for the enterprise and income for the Appellant. Nonetheless, based on the limited financial evidence before me submitted as part of this appeal, doubts about the current financial standing of the business remain sufficient to justify dismissal of this appeal.

Conclusions

22. 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

John Hampton	Appellant
Kim Walker	Taylor Whitehouse Planning Ltd
Kevin Bateman MRICS, FAAV, MBIAC P.Agric MIAgrM	Bateman Hosegood Ltd
Lisa Wonnacott	Simpkins Edwards Accountants

FOR THE LOCAL AUTHORITY

Nicola Turner PGCE	Dartmoor National Park Authority
Roger Sewill MRICS	Reading Agricultural Consultants