



Appeal Decision

Hearing Held on 13 January 2021

Site visit made on 14 January 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2021

Appeal Ref: APP/C9499/W/20/3260523

3 Rayne Cottage, Gaisgill, Penrith CA10 3UD

- 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 Rayne Holdings against the decision of Yorkshire Dales National Park Authority.
 - The application Ref E/11/10B, dated 11 May 2020, was refused by notice dated 4 September 2020.
 - The development proposed is the erection of residential cabin for agricultural worker (retrospective).
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Rayne Holdings against Yorkshire Dales National Park Authority. This application is the subject of a separate Decision.

Preliminary Matters

3. The description in the banner heading above is taken from the planning application form. This differs from that appearing on the Authority's decision notice and the appeal forms which describe the development as 'retention of residential cabin for agricultural worker for a further 3 years'. At the hearing the parties confirmed that this was agreed and it provides a more accurate description of the proposed development. I am satisfied that no party will be prejudiced by my use of it and it is the development considered in the determination of this appeal.
4. The evidence before me indicates that the Council has served an enforcement notice upon the land and the appeal is made retrospectively. I have therefore dealt with the proposal as one under s73A of the Act for development already carried out. For the avoidance of doubt, my consideration of the proposal is limited to that specified in the planning application. It is therefore exclusive from any enforcement proceedings being pursued, or otherwise, by the Council.

Background and Main Issue

5. The appellants have owned the site comprising about 5.25ha of agricultural land, two agricultural sheds, a cabin and two traditional stone barns since mid-2018. Since acquiring the site, they have occupied the timber clad cabin to

support a fledgling farming and holiday-let business, the latter utilising one of the stone barns. The agricultural business consists mainly of sheep and cattle rearing for onward sale. The sheep flock includes rare breed sheep. Four alpacas are also kept on the site.

6. Pursuant to the expiry of an earlier temporary planning permission granted to a previous site owner, the cabin is subject of an Enforcement Notice requiring its removal from the site. The Notice was in place at the time of acquisition by the appellant. The second stone barn lying closest to the road benefits from planning permissions for either use as a further holiday cottage (S/07/538) or as a residential dwelling (E/11/18). Both permissions remain extant.
7. Since occupying the site, successive lambing and calving events have increased the stock numbers on the holding. According to the appellant's evidence, further areas of land have been rented in the vicinity of the site providing some additional 7.8ha for grazing and/or hay production.
8. The main issues are whether or not there is an essential need for a dwelling to accommodate a rural worker and, if so, the effect of its presence on the character and appearance of the locality.

Planning Policy

9. The site is located within an extension area of the Yorkshire Dales National Park and the relevant local planning authority is the Yorkshire Dales National Park Authority (the Authority). The retained development plan for the locality is the Eden Local Plan (2014-2032) (ELP) as adopted by Eden District Council in 2018 and as referred to in the Authority's Decision Notice. The most relevant policies for the determination of the appeal are Policies LS1, HS3 and ENV2.
10. ELP Policy LS1 restricts development in Other Rural Areas to the re-use of traditional buildings, the provision of affordable housing as an exception to policy only, or where proposals accord with other policies in the local plan. The supporting text clarifies that this includes essential agricultural workers dwellings.
11. Policy HS3 - Essential Dwellings for Workers in the Countryside is a criteria-based policy. It sets out the approach that the Authority will take to proposals for the development of dwellings needed to support an agricultural or rural business. Amongst other matters, it requires demonstration of exceptional circumstances through the substantiation of need for the presence of a full-time rural worker, that the business is profitable, has operated for three years and can financially support the construction of a dwelling. It states that the dwelling should be of limited size, commensurate with the enterprise and have appropriate design that avoids harm to landscape, archaeological and conservation interests.
12. Policy EN2 – seeks to secure the protection and enhancement of landscapes and trees. Since the incorporation of the area in the National Park this must be considered in the context of the statutory purposes to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.
13. Paragraph 83 of the National Planning Policy Framework (the Framework) supports the sustainable growth and expansion of all types of business in rural

- areas including the development and diversification of agricultural businesses and rural tourism. Paragraph 79 of the Framework seeks to avoid isolated homes in the countryside unless, amongst other things, there is an essential need for a rural worker, including those taking the majority control of a farm business, to live permanently at or near their place of work in the countryside.
14. On adoption of the ELP, the policies within it were found to be consistent with the Framework and, despite pre-dating the latest iteration, I find it remains consistent with it in regard to essential workers dwellings.
 15. There is dispute between the main parties as to the relevance of Policy HS3 and Paragraph 79 of the Framework. Neither of these policies distinguish between permanent dwellings and those intended to be sited for a temporary period. However, it is acknowledged by both parties that guidance on assessing the need for essential rural workers is present in the National Planning Practice Guidance (PPG). This includes reference to the option of granting planning permission for a temporary period in the case of new enterprises.
 16. There are no detailed tests for demonstrating an essential need in the Framework. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination, the development proposals are determined in accordance with the development plan unless material considerations indicate otherwise.
 17. At the hearing I heard that the appellant's position was that, in the absence of direct reference to temporary accommodation, Policy HS3 and Paragraph 79 of the Framework were redundant in their entirety to the determination of the case. This was predicated on the basis that the development plan tests require that the need for a full-time worker is established, the business is profitable and has been operational for 3 years in a manner that can financially support the construction of a dwelling. As a result, it is the appellant's case that the policy presents a paradox in the start-up period of any new enterprise seeking to demonstrate the need for a temporary form of dwelling sited for a limited time.
 18. In the appellant's considered absence of relevant development plan policies, I heard that the tried and tested approach of the now superseded PPS7- Sustainable Development in Rural Areas, and attendant tests set out in its Annex A, were more appropriate in the circumstances of the case. Additionally, it was claimed that it follows that the presumption in favour of sustainable development, as set out in Paragraph 11 of the Framework, applies.
 19. Whilst there are no prescriptive tests in the Framework, it is open to local planning authorities to adopt detailed tests within a local development plan to assist in their assessment of essential need. Although such tests could reflect the guidance in former PPS7, that document was superseded by the Framework. Despite that there is no reference to temporary forms of accommodation in either Policy HS3 or the Framework, this does not undermine the necessity to demonstrate the essential need for a full-time worker. Moreover, it does not prevent the issue of a temporary permission in accordance with Paragraphs 54 and 55 of the Framework and the provisions of section 70(1)(a) of the Town and Country Planning Act 1990 (as amended). Accordingly, I find the development plan retains primacy and is directly relevant to the proposed development. Furthermore, paragraph 79a of the Framework and associated advice in the PPG are relevant considerations.

Reasons

Essential need

20. The site is located within a countryside area north of the River Lune and the A685. It is set on a hillside accessed via a rural lane. The owned and rented land is situated mainly between the river and the lane; however, one rented field and the traditional barns sit to the northern side of the lane. The stone barns lie directly opposite the holding's agricultural barns which are adjacent to a vehicular access into the site. The buildings form a loose cluster of development with other buildings at Rayne Farm.
21. There is common ground between the parties that the activities relating to livestock management taking place on the site require the presence of a rural worker at particular times in order to achieve a high standard of husbandry. At the time of the Authority's assessment this was demonstrated to be equivalent to 0.3 of a full-time worker. The appellant's projections at that time indicated that, pursuant to consecutive calving and lambing events, alongside further investment in livestock, the increased essential responsibilities would achieve a requirement estimated by the Authority's advisor at around 1 full-time worker after about a 3-year period.
22. Policy HS3 also reflects the advice in the PPG as it seeks to gauge confidence that the enterprise will remain viable for the foreseeable future. For the purposes of the temporary permission sought, where review of the status of the enterprise would be revisited should a further permission for accommodation be required, the emphasis on financial aspects of the business were given less weight by the Authority's specialist agricultural advisor than might be appropriate for a case seeking a permanent dwelling.
23. Given the likelihood of financial projections being accurate over any fixed term in relation to a fledgling business, I find that this pragmatic approach is not unwarranted. However, in this instance, the nature of the enterprise currently consists of a mix of the holiday let, the agricultural holding and is supplemented by other income such that financial aspects are currently co-dependent.
24. I heard that, since the time of the Authority's initial assessment, monies have been directed to accelerating the scale of the agricultural business, including acquisition of additional stock, purchase of implements and machinery and the rent of additional areas of land. However, this has more recently been pegged back on account of the effects of the Covid-19 outbreak on the holiday-let bookings and the uncertainty caused by the Authority's planning decision. Consequently, whilst sheep stocking has maintained steady progress, cattle numbers are well below the initial projections.
25. Despite the absence of detailed accounts or tax returns to demonstrate the progress of the farming business and its potential to become independently financially sustaining, there are reasonable grounds on the basis of the development of the agricultural enterprise over the last 30 months, to consider that the farming activity could generate the full-time worker essential need in the coming years. This was not disputed by the Authority and some assurance in respect of long-term investment is underpinned by the fact that the core part of the holding, albeit limited in scale, is owned by the appellant.

26. However, reflecting the policy of constraint for new development in rural areas outside settlements, the justification to Policy HS3 advises that where existing suitable buildings are available these should be used in preference to any new development. This reflects the advice in the PPG in consideration of whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate. The existing traditional barns provide such an opportunity.
27. It is the appellant's case that the unfinished roadside barn with permission for use as a dwelling is incomplete and therefore not currently available. However, consistent with a costing schedule provided by the appellant, only final fix services and finishing remain to be completed. Although the works are estimated at almost £50k and would prejudice potential future income from a second holiday let, I find the lack of financial clarity arising from the absence of detailed accounts is pivotal.
28. As the overall enterprise currently involves the holiday let, the farming business and supplementary income from other work, the dearth of financial information relating to the individual aspects of the businesses and other sources of income or, as highlighted by the Authority, the potential sale of the cabin, fails to demonstrate that the residential use of the other buildings could not be realised within a short timescale. Although I heard that investment in both the completion of the barn conversion works and the farming enterprise could not take place consecutively, there is little evidence to substantiate that claim.
29. Furthermore, the holiday-let, which is managed by a third party, has been in operation and there is little evidence before me to indicate that it could not provide a suitable standard of permanent living accommodation. Such a use is supported by Policies LS1 and RUR3 of the ELP, as referred to by the Authority, without necessity for restricted occupancy. It would therefore also be capable as serving as a dwelling to meet the essential need.
30. I heard that the appellant considered that this approach would be contrary to advice given by the Authority's agricultural advisor. Whilst advice to invest at a greater rate in the farming enterprise in order to meet the full-time essential worker test may have been suggested, such advice is limited in its scope. It does not alter the policy of housing constraint applicable to the area and the associated preference for the re-use of existing buildings in advance of new dwellings located in countryside areas.
31. From the time of acquisition, it was open to the appellant to seek to complete the conversion of the roadside barn or apply to change the use of the holiday let to fulfil any residential requirement in the location. This would align with policy requirements. Despite receiving pre-application advice from the Authority, the diversion of resources from the beneficial use of the vacant roadside barn was a matter of individual preference by the appellant. In the absence of detailed supporting financial information to demonstrate that this is no longer a possibility, the retention of the cabin is not otherwise demonstrated to be essential to the success of the enterprise.
32. The appellant maintains that the stone barns would not offer a suitable level of security or the benefits of the immediate proximity of the cabin to the agricultural barns. I acknowledge that the stone buildings would not offer the same direct wide views of the majority of the holding or the immediate

presence of the cabin. They would, nevertheless, provide opportunities for close supervision, the ability to tend the site and suitably respond to emergency and other needs. At the time of my site inspection, I saw that the part-converted roadside barn would offer views over large areas of the land, the roofs of the agricultural barns and the nearest access point. The barn already converted to a holiday let would not have the same clear sight of the main operational area of the holding but would also lie in close proximity.

33. Although rural security is a significant concern, I find that the numerous traditional and modern methods of enhancing security, combined with the close proximity of the stone barns would be capable of serving the essential need. This could be in a manner such that operational and security matters were not unduly prejudiced and would achieve levels of security comparable to other livestock holdings in remote areas.
34. In support of the development, the appellant has referred me to a number of appeal decisions allowing essential worker accommodation for a temporary period. Although parallels might be drawn from those cases in terms of essential need and foreseeable viability, the availability of existing buildings capable of serving the essential need does not arise. They are therefore distinct from the circumstances of this case, a case I have considered on its own merits.
35. For the above reasons, I find that an essential need for a workers dwelling in the countryside is likely to arise from the activities and anticipated levels of livestock accommodated on the holding. However, the presence of other buildings within the holding that are, or could be, capable of meeting the essential residential need leads me to the conclusion that the exceptional circumstances required to justify the retention of the existing cabin are not demonstrated. The proposal thereby conflicts with Policies LS1 and HS3 of the ELP as they seek to restrict new development in Other Rural Areas outside of existing settlements.

Character and appearance

36. The site forms part of an open rural landscape about the wide River Lune valley bordered by low foothills lying to the north and south. The area is characterised by irregular pasture fields enclosed by drystone walls. Some linear tree belts following watercourses and field boundaries are present amongst more dispersed individual trees and small pockets of built development.
37. The cabin is sited close to and in alignment with the agricultural and stone barns. It is bordered by established trees north of the River Lune which permit only limited glimpses of it from the main A685 road where it is mainly seen against the backdrop of the larger sheds. However, it is openly visible on approach along the lane from which access is taken. This has the effect of extending the visible envelope of built development, particularly on approach from the east, where it is seen in clearer context with the converted barns to the north of the lane.
38. The siting results in development lying across much of the width of the field between the road and river. Although it reflects the basic form of the adjacent sheds and utilises similar natural external materials, the design is more typical of a holiday cabin on account of the window arrangements and associated fenced decking area.

39. The effect of the siting and appearance would contrast to the predominant agricultural character of the land and traditional forms of local development such that it would fail to conserve the established character of the locality. This would incrementally serve to undermine the statutory purposes to conserve and enhance the natural beauty of the National Park. However, as a proposed temporary form of development, the degree of harm would be limited and the landscape impact could be reduced, or partly assimilated, by its re-siting.
40. Nevertheless, I have found that the justification for an isolated building in the countryside has not been demonstrated. Accordingly, any benefits arising from its use, including the active maintenance of the land and contribution to rural enterprises which might outweigh the building's effect on the character and appearance of the locality, are not dependent on its presence. I therefore find the cabin would conflict with Policy ENV2 and of the ELP which seek to conserve and enhance distinctive elements of landscape character and function.

Other Matters

41. I note the letters of support from third parties, particularly in expressing concern that the Authority's decisions are prejudiced by previous owner's activities. However, those circumstances are not relevant to the case before me and have been given no weight in my deliberations.

Conclusion

42. The nature of the rural-based agricultural enterprise is such that a full-time essential worker need is likely to arise if expansion of the farming business continues. However, there are opportunities within the existing traditional buildings owned by the appellant to provide accommodation to meet that need. Although the use of either of those buildings may require reprofiling of the business plan for the consecutive development of agricultural and tourism projects, there is little evidence to demonstrate that this would prejudice the development and sustainability of those businesses. I therefore conclude that the exceptional circumstances to justify a new dwelling in an area of housing constraint, whether temporary or otherwise, has not been demonstrated.
43. I find the development would be contrary to the adopted development plan and there are no other material considerations to indicate a decision otherwise than in accordance with it. For the reasons set out above, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR

APPEARANCES

FOR THE APPELLANT

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Neil Plant

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Alison Shaw

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FOR THE COUNCIL

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