
Appeal Decision

Hearing Held on 3 February 2021

Site visit made on 4 February 2021

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

an Inspector appointed by the Secretary of State

Decision date: 23 February 2021

Appeal Ref: APP/D0840/W/20/3257027

The Stables, Golberdon Road, Pensilva, Liskeard PL14 5RH

- 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 J & Mrs R Carter against the decision of Cornwall Council.
 - The application Ref PA19/09426, dated 10 October 2019, was refused by notice dated 4 April 2020.
 - The development proposed is the erection of agricultural dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Cornwall Council against Mr J and Mrs R Carter. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is whether or not the proposed dwelling is justified, having regard to National and Local Planning policies which seek to restrict new residential development in the countryside.

Reasons

4. The appeal site comprises agricultural land located outside of and separated from the nearest settlement at Pensilva. A static caravan and a number of modestly sized agricultural and horticultural structures are positioned within the boundaries of the site, with the land being further separated into a number of paddocks for grazing and pens for holding livestock. The appeal site is positioned towards the top of a ridge and is prominent in views from the north. The site is accessed from the adjacent narrow rural highway.
5. As noted above, the appeal site is located outside of any settlement. Policy 7 of the Cornwall Local Plan Strategic Policies 2010-2030¹ (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. 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.

¹ Adopted November 2016

6. Paragraph 83 of the National Planning Policy Framework (the Framework) says planning decisions should support the sustainable growth of businesses and enable the development and diversification of agriculture and other land based rural businesses. Paragraph 79 of the Framework sets out that planning decisions should avoid the development of isolated homes in the countryside unless, amongst other things, 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 within the countryside.
7. Given that there is a very small cluster of dwellings to the east of the site, as well as agricultural buildings nearby, it could be considered that the site is not strictly isolated from other buildings, people or places. However, the site is separated from the nearby residential built form by agricultural land, and would be in a location outside of, and isolated from, the nearest settlement. Consequently, whether or not an essential need can be demonstrated remains a material consideration.
8. While neither Policy 7 of the Local Plan nor the Framework itself define what constitutes an essential need, the Planning Practice Guidance (the PPG)² does confirm that there are a number of considerations which may be relevant to take into account when assessing the need for rural workers' dwellings in the countryside. These considerations include; evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products), as well as the degree to which there is confidence that the agricultural enterprise will remain viable for the foreseeable future.
9. Some discussion took place at the hearing as to what weight, if any, ought to be attached to Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas', given that PPS7 was replaced by the Framework and its subsequent revisions. However, despite its lack of status, it is my view that Annex A of PPS7 is still a potentially useful tool in assessing whether an onsite rural workers dwelling would be justified.
10. Notwithstanding the above, the Appellants' Representative put it to me that it was not necessary to demonstrate that there would be a functional need for a rural worker to be permanently at the site, nor that it would be necessary to demonstrate that the business would remain viable for the foreseeable future, in order to justify a new dwelling at the site.
11. In this regard, the Appellants' Representative referred to the Council's questionnaire entitled 'Supplementary Questions to be answered in connection with an application for Planning Permission to erect Agricultural/ Horticultural/ Forestry or other occupational Dwelling, or for Temporary Accommodation to serve a farm', and specifically to the advice contained therein which provides that "it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time".

² Paragraph: 010 Reference ID: 67-010-20190722

12. Whilst I acknowledge the Appellants Representative's view that only the intention to engage in farming is relevant and determinative in relation to this appeal, it is apparent from current National Planning Policy and guidance that intention is only one of a number of important considerations that applications for rural workers' dwellings are assessed against. This position is also made very clear within the cited questionnaire, which confirms that it would also be important to establish that the needs of the intended enterprise requires workers to live nearby and that financial details of the business be submitted. This advice is consistent with the guidance contained within the PPG.
13. Whilst the intention to farm is an important consideration, it is apparent from the guidance contained within the PPG and to the advice contained within the Procedural Guide, Planning Appeals – England³, that in order to comply with the essential need test of paragraph 79 of the Framework and Policy 7 of the Local Plan, it would be reasonable to demonstrate that a functional need exists and that evidence of financial viability be provided so as to demonstrate that the business is likely to endure in the longer term, thereby minimising the risk of dwellings becoming unsustainable isolated homes in the countryside contrary to the intention of paragraph 79 of the Framework.
14. At the Hearing and as part of the written submissions in support of the appeal, the Appellants have put it to me that a permanent on-site presence is required in order to care for livestock, to carry out day to day farm tasks and to provide security. The Appellants currently reside at Higher Tremarcoombe and, it was confirmed, that the Appellants make several trips a day to carry out farming activity at the site.
15. The evidence before me indicates that the rural enterprise commenced in 2011 and extends to approximately 2.34 hectares upon which the Appellants propose to keep approximately 12 sheep, 8 pigs and 114 chickens and turkeys. The land also provides areas for growing of vegetables and fruit, and the Appellants maintained that it would be proposed, in the future, to also introduce alpacas and quail to the enterprise as well as beehives.
16. The Council have referred me to the John Nix Farm Management Pocketbook which, based on the figures of livestock as provided by the Appellants' Representative, indicates that the level of livestock would only require approximately 35 Standard Man Days per annum, or equivalent to approximately 0.13 full time workers. Against this, the Appellants' Representative maintained that additional consideration of time spent on managing the land and the vegetable and fruit crops, as well as the need to provide security against theft and to provide on-site assistance with animal welfare concerns, would be sufficient to demonstrate a functional need to be at the site.
17. Whilst it could be considered that increases in livestock levels could result in additional labour being required, I have not been provided with any substantive evidence of number of additional livestock that it is proposed would be introduced to the enterprise. Furthermore, whilst elements of the enterprise, such as the vegetable and fruit growing, can be time consuming work, such activities would not require an on-site permanent presence. The numbers of livestock involved in the enterprise are relatively modest and it is noted that the Appellants have not permanently lived at the site since it was acquired

³ November 2020

approximately ten years ago. Based on the levels of livestock, including livestock that it is proposed to have at the site as per the Appellants' written submissions, in my view it has not been demonstrated that a full time worker would be required to live at the site and that the livestock numbers at the site are insufficient to justify a functional need.

18. I acknowledge the Appellants' concerns in respect of the security of the site and for the safety and welfare of the livestock kept there. There have been both loss of livestock and equipment thefts from the site, and I appreciate such occurrences would be frustrating and distressful. However, the Appellants have owned the holding for approximately 10 years, and I have no substantiated evidence before me as to the degree of the problem or its impact on either the success of the existing or any future farming enterprise. Nor would a residential on-site presence be the only deterrent to prevent against thefts. Whilst a residential presence at the site could help deter criminal activity, it would not necessarily provide a guarantee against crime.
19. Whilst it would no doubt be more convenient for the Appellants to live at the site and there would be some advantages in terms of animal welfare and security, the evidence that is before me is not persuasive that there is an essential need for there to be a permanent presence on the site in order for the business to operate.
20. As noted above, the PPG confirms that 'the degree to which there is confidence that the enterprise will remain viable for the foreseeable future' is also an important consideration in terms of assessing essential need. In this respect, it would be proportionate to provide evidence of financial viability so as to reasonably demonstrate that a business is likely to endure in the longer term.
21. At the hearing, the Appellants provided verbal information and details regarding the nature of the enterprise and the products that were sold in order to provide income. The Appellants advised that they have a number of local customers, including a butcher, that valued the quality of their products and the manner in which they cared for their livestock. Additional income was produced from salad, vegetable and fruit crops as well as from fleece shed by sheep.
22. Notwithstanding the information provided, no financial or other records have been provided by the Appellants to support the contention that the enterprise will remain viable for the foreseeable future. Whilst I acknowledge that, by reason of the high degree of care given to the livestock by the Appellants and due to the low intensity nature of the enterprise, the Appellants products could attract a premium price, no records or other substantive evidence or information regarding the income generated by the holding has been provided. Furthermore, no information regarding business costs or expenses or details of the costs involved in the construction of the proposed dwelling have been provided. The absence of financial evidence, as well as the likely significant costs required for the proposal, leaves me with a lack of confidence that the proposed enterprise will remain viable for the foreseeable future.
23. Whilst I have no reason to doubt that the enterprise would be capable of growing to some degree in the future, it is, nonetheless, a very modest sized holding and it is difficult to see from the evidence before me how the enterprise could be a viable and sustainable enterprise in the medium to long term. I note the investment made by the Appellants in terms of time and money, and have

- no reason to question the intentions of the Appellants which I am sure are genuine. However, the Appellants' firm intention does not equate to an essential need and in the absence of information regarding profitability, there is some doubt in my mind as to whether the enterprise would remain viable in the foreseeable future.
24. Drawing all these matters together, I am not persuaded that the enterprise: would currently generate a labour requirement sufficient to support a full-time worker, that there would be a need for such a worker to be present on site at most times, nor; that the enterprise would be viable and have a realistic prospect of remaining so in the longer term. Therefore, I find that it has not been sufficiently demonstrated there would be an essential need for a rural worker to live at the site.
25. The appeal site is located within the Lynher Valley Area of Great Landscape Value. The proposed dwelling would alter the character of the site from that of rural setting to one of a more domestic appearance. The appeal proposal would represent a sporadic encroachment of residential built form into the countryside, with all the domestic paraphernalia that would entail, thereby being harmful to the intrinsic character and beauty of the countryside.
26. For the above reasons, I conclude that it has not been demonstrated that there is an essential need for a rural worker to live at the site and, therefore, the proposed dwelling in the countryside is not justified. Furthermore, it has not been demonstrated that the existing rural enterprise is sufficiently viable in the longer term. Accordingly, the appeal scheme would conflict with Policy 7 of the Local Plan and would fail to accord with the provisions of the Framework with regards to Rural Housing.
27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
28. The proposal would contribute a single unit towards housing supply and would provide some very limited benefits in terms of employment during the construction phase. The weight to be attached to these benefits is limited by reason of the scale of the proposal. Whilst I acknowledge that the Appellants intend to provide some educational benefits, in respect of low intensity farming practices for anyone visiting the site, there is no evidence before me which confirms how this would be achieved in practice. Cumulatively, I attach limited weight to these benefits in the determination of this appeal.
29. Against these matters, the appeal proposal would conflict with the development plan and the Framework when taken as a whole, which weigh significantly against the proposal. The identified harm would outweigh the limited benefits of the proposal and would conflict with the environmental dimension of sustainable development.
30. At the hearing, the Appellants' Representative put it to me that a condition could be imposed on any planning permission which, in the event that the enterprise did not prove to be viable in the longer term, would require that the proposed dwelling be demolished and the land restored to agricultural use. However, in this regard and in light of the provisions of paragraph 55 of the Framework and the guidance contained within the PPG, I conclude that it would not be reasonable to impose such a condition given that the application is not

for a temporary structure but rather would result in the construction of a permanent dwelling.

31. Furthermore, whilst I acknowledge the Appellants Representative's view that an agricultural occupancy condition would be applied restricting the use of the proposed dwellings for those working in agriculture, without confirmation that the holding and enterprise would be viable, it would be unlikely that the Council would be able to resist later applications that the occupancy condition be lifted, with the result being an unrestricted, isolated dwelling within the countryside.

Other Matters

32. The Appellants referred me to several other forms of nearby development which have been permitted by the Council and in locations outside of the nearest settlement. Whilst the Appellants' submissions are noted, I do not have full details of the circumstances that led to those other forms of development being accepted and so I cannot be sure that they represent a direct comparison to the appeal proposal, including for example, in respect of scale, specific location and development plan policy. In any event, I have considered and determined this appeal on its own merits.

Conclusions

33. I have no doubt as to the intention, experience, dedication and commitment of the Appellants to their work and to the livestock in their care. However, these matters do not outweigh the protection from residential development generally afforded to the countryside.
34. 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

Mrs R Carter	Appellant
Mr K Horsley	Agent

FOR THE LOCAL AUTHORITY

Mr J Holman MRICS MRTPI FAAV	Cornwall Council
Mr S Jefferson	Cornwall Council

DOCUMENTS SUBMITTED AT HEARING

1. Cornwall Council Application for an award of appeal costs and copy supporting written statement of verbal submissions made at hearing.