
Appeal Decision

Hearing held on 20 August 2014

Site visit made on 20 August 2014

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 September 2014

Appeal Ref: APP/A2470/A/14/2218340

Hazel Hill Farm, Wing Road, Morcott, Rutland, LE15 9DA

- 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 Paul Bird against the decision of Rutland County Council.
 - The application Ref 2014/0018/FUL, dated 3 January 2014, was refused by notice dated 4 April 2014.
 - The development proposed is described as "stationing of a mobile home on agricultural land, change of use to residential for temporary period of three years".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Rutland Local Plan Site Allocations and Policies DPD (2013) (LPDPD) has been subject to a formal Examination and is expected to be adopted in 2014. Given these circumstances I attach significant weight to it in reaching my decision.

Main Issue

3. The main issue is whether, having regard to the aims of national and local planning policies that seek to resist new dwellings in the countryside, the enterprise justifies the proposed dwelling.

Reasons

4. The appeal site is approximately 1.65 hectares of agricultural land located off the southern side of Wing Road, approximately 1.5 miles to the west of the village of Morcott in open countryside. The Council have no objection to the proposed dwelling in terms of size or its impact upon the character and appearance of the area. I have no reason to disagree with that view.

Policy framework

5. The appellant referred to Policies CS1, CS2, CS16, CS18, and CS19 of the Rutland Core Strategy Development Plan Document (DPD) (2011) (CS). They set out the Councils over-arching strategic objectives and sustainable development principles for all types of development including transport and accessibility. With particular relevance to this proposal Policy CS16 provides

the strategic approach for the rural economy, including encouraging agricultural and horticultural enterprises.

6. Policy CS4 sets out the Council's strategic approach to the location of development. It strictly limits development in the countryside to that which has an essential need to be located in the countryside. In addition, saved Policy EN26 of the Rutland Local Plan (2001) (LP) sets out an exception to the presumption against development in the countryside, being development which is essential to the efficient operation of agriculture, horticulture or forestry.
7. LPDPD Policy SP5 states that new housing development will not be permitted in the countryside except where it can be demonstrated to be essential to the operational needs of agriculture, forestry or an established enterprise requiring a rural worker to live permanently at or near to their place of work in the countryside. Also, criteria against which planning applications for proposed temporary agricultural dwellings are to be assessed are set out at Appendix 1 to LPDPD Policy SP5 (paras. 4 and 12) which include (i) clear evidence of a firm intention and ability to develop the enterprise (ii) a functional need requiring one or more workers to be readily available at most times, and (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis.
8. Paragraph 28 of the Framework¹ sets out a positive approach to sustainable new development in rural areas, and paragraph 55 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. One such circumstance is the essential need for a rural worker to live permanently at or near their place of work in the countryside. In my opinion, the aims and objectives of the Council's planning policies reflect the provisions of the Framework.

Intention and ability to develop the enterprise

9. The appellant is mainly self-taught, having developed his skills and knowledge from an employment background of landscape gardening and as a farm worker across Europe. He purchased the field in 2008 for £25,000 and began using it for agriculture. Planning permissions were granted for a barn and poly-tunnel in 2008, an underground vegetable storage clamp in 2010, and a new vehicular access in 2013. A further 4 non-fixed polytunnels have also been added to the site together with a generator, batteries, inverter and electrical equipment, including solar panels on the barn roof. The power system is linked to automated temperature, humidity and irrigation control systems. The appellant estimates he has invested approximately £70,000 in developing the site since 2008. None of this evidence is disputed by the Council.
10. Having regard to the above circumstances and to my observations during my visit to the appeal site, it is clear that the appellant has a commitment and enthusiasm for his permaculture approach to agriculture. Although there have been mixed results in terms of successfully producing crops and profitability over the years, a matter to which I return later, I have no doubt that the appellant has demonstrated a firm intention and ability to develop the enterprise.

¹ National Planning Policy Framework (2012)

Functional need

11. A wide variety of vegetables and fruit have been grown at the site. In addition 1000 fruit trees were grafted in the current year.
12. It was argued by the appellant that there is an essential need for a permanent and full-time presence on site related firstly, to the maintenance of the site and to the power supply and automated crop management systems, secondly, to security from theft, and thirdly in respect of pest control.
13. In respect of maintenance I heard that during high wind conditions there was risk of damage to the fixed poly-tunnel from tearing, and that ground fleeces could be lifted exposing crops to frost. Also, that unexpected failure of the power system (and hence the automated temperature/humidity and irrigation system) could have a severe effect on crops within the poly-tunnels. With regard to security, there have been several thefts of equipment. These risks, it was argued, require a fast response from someone being on site at all times, particularly during the night.
14. However, I am not persuaded that these risks could not be adequately managed without the need for a permanent on-site presence. National and local weather forecasts provide reasonably accurate warning of occasions when high winds are likely to be of a strength that could result in damage. Given that the appellant lives at Uppingham, which is only 12 minutes travelling time from the site by car, I do not consider the relatively occasional risk of such damage to be an unmanageable risk and hence I do not consider this to be an over-riding concern.
15. While I accept that a failure of either or both of the power and the automated temperature and irrigation systems could have a severe impact on the crops, I note that these were installed by the appellant who acknowledged that they are best described as 'low-tech' systems. However, alternative high specification monitoring systems are readily available which incorporate system failure alarms, and can be accessed and operated remotely by a telephone line or wireless technology.
16. While the appellant doubts the efficacy of such systems, particularly due to the current lack of a telephone line and potentially a poor reception area for wireless communication, it was clear that such an alternative had not been thoroughly investigated. It was also argued that the cost of installing such a system could be prohibitive in addition to the £9,000 cost of installing a telephone line. However, the cost of such an alternative system could be significantly less in the longer term than the cost of providing a temporary dwelling, and subsequently a permanent dwelling. Consequently, I am not convinced that this matter justifies a permanent on-site presence.
17. Although I recognise that the effectiveness of security measures to deter and prevent crime cannot be guaranteed, for similar reasoning as above I consider that the security of the site could be improved by use of the latest technology and monitoring equipment. Moreover, even without any potential improvements to security, I do not consider that the risk of crime is by itself sufficient justification for residential occupation of the site.
18. In respect of pest control the appellant provided evidence in respect of crop damage from rats. It was argued this was a particular problem due to the

appeal site being located close to nearby fields used for game shooting. I have no reason to doubt that such a problem exists and this evidence was not disputed by the Council.

19. However, the appellant explained that he prefers to control rats by shooting with an air rifle, rather than using poison which is generally the more widely used method for controlling rat incursion on farms. In this regard, the appellant acknowledged that his method of pest control had been based on informal advice from internet forums rather than from professional advice. In my view, professional advice based on an inspection of the site and its surroundings would likely offer up a more efficient pest control solution. Consequently, I attach limited weight to this issue in support of the appeal.
20. The appellant also argues that living on site would make the day the day operation and management of the site much easier and would also be more sustainable by reducing car journeys from Uppingham. While I accept that these would be positive benefits, they do not persuade me that there is an essential need to permanently live on site.
21. Overall, I consider that an essential need to permanently live on site related to the proper functioning of the enterprise has not been demonstrated.

Financial viability

22. The appellant's budget and forecasting analysis indicated a net profit of £34,330 at the end of the first year of trading. However, the appellant acknowledged that this did not include additional costs for a mobile home, estimated at £10,000, or the planned purchase of 2 more polytunnels and poultry housing, a mower, and replacement tools, estimated at £6,100.
23. Using the appellant's estimated costs the predicted net profit of £34,330 would reduce by £16,100 to £18,230. Notwithstanding my view that some of the estimated costs appear to be unrealistically low, there was also no inclusion of a capital cost element related to the initial purchase of the land, or the 2 latest polytunnels on the site (£3,000), or recent works to create a secondary access (£3,000), all of which would significantly reduce the net profit even further.
24. The appellant acknowledged that his financial forecast in respect of income from sales was optimistic and based on a best case scenario. I agree with that view. Even a minor reduction in the income forecast from sales, together with an upward revision of costs as indicated above could result in little or no net profits.
25. Overall, I am not convinced on the balance of the evidence before me that the enterprise has been planned on a sound financial basis.

Conclusion

26. On the balance of the evidence before me I have found that a firm intention and ability to develop the enterprise has been demonstrated. However, I have found that an essential functional need to permanently live on site has not been demonstrated, and that the enterprise has not been planned on a sound financial basis. For these reasons, I conclude that the enterprise does not justify the proposed dwelling, which would therefore conflict with the requirements of CS Policy CS4 and LP Policy EN26. It would also conflict with LPPDP Policy SP5 and Appendix 1 and with paragraph 55 of the Framework.

27. For the above reasons, and having regard to all matters raised, my overall conclusion is that the appeal should be dismissed.

Thomas Shields

INSPECTOR

