



Appeal Decision

Hearing (Virtual) Held on 7 September 2021

Site Visit made on 8 September 2021

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

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021

Appeal Ref: APP/J9497/W/21/3272334

Cuddyford Meadows, Rew Road, Ashburton TQ13 7EJ

- 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 Ms Rachel Sykes against the decision of Dartmoor National Park Authority.
 - The application Ref 0376/20, dated 27 July 2020, was refused by notice dated 2 October 2020.
 - The development proposed is described as the permanent retention of a rural workers dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a rural workers dwelling at Cuddyford Meadows, Rew Road, Ashburton TQ13 7EJ in accordance with the terms of the application, Ref 0376/20, dated 27 July 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development used in the heading above has been taken from the planning application. However, in allowing the appeal I have altered the description to remove reference to the term 'permanent retention' as this is not an act of development.

Background and Main Issue

3. Planning permission was granted on appeal¹ (the Previous Appeal) for the temporary siting and residential use of a mobile home for a rural worker for a period of three years. The appeal proposal seeks to retain the structure, referred to in the submissions of the main parties as a timber cabin, as an agricultural dwelling in association with the enterprise at the appeal site.
4. The main issue is whether the dwelling unit is justified by the needs of the enterprise at the site, having regard to policies which seek to restrict development in the Dartmoor National Park (the National Park).

Reasons

5. The appeal site comprises land and buildings located in a rural location within the National Park, close to Cuddyford Cross and outside of the nearest settlement at Ashburton. The appeal site forms part of a larger area of land

¹ Appeal Reference: APP/J9497/W/17/3168468

which is in use for keeping of livestock, vegetable and horticultural production and the siting of 'glamping' tents.

Essential Need

6. Policy COR2 of the Dartmoor National Park Authority (the DNPA) Core Strategy Development Plan Document (2008) (the Core Strategy) sets out the spatial development strategy for the National Park. As noted above, the appeal site is located outside of Ashburton and Policy COR2 of the Core Strategy provides that in such locations development will be acceptable in principle if, amongst other matters, it is necessary to meet the proven needs of farming, including farm diversification, forestry and other enterprises with an essential requirement to locate in the open countryside. Policy COR15 of the Core Strategy confirms that outside Local Centres such as Ashburton, housing development will be restricted to that serving the proven needs of agriculture, forestry and other essential rural businesses.
7. Policy DMD23 of the DNPA Development Management and Delivery Development Plan Document (the DMD) concerns residential development outside of settlements. This policy reiterates that outside of Local Centres such as Ashburton, amongst other things, planning permission for housing will only be granted if it is required for rural based enterprise and subject to certain criteria.
8. In respect of the criteria provided under Policy DMD23 of the DMD, it is common ground between the main parties that there is no existing satisfactory building at the appeal site which would be suitable for conversion to residential accommodation. However, the DNPA have put it to me that the proposal would fail to accord with other criteria as provided under this policy. I shall consider each in turn below.
9. Criterion (ii) of Policy DMD23 requires that there is an established existing functional need for the rural worker to be readily available at most times. The Appellant maintains that there are various reasons why an on-site presence at most times is necessary. These reasons include propagation, monitoring and care for a variety of crops which include control of pests, ventilation and irrigation as well as in relation to protection of crops from extremes of weather, in addition to the care of livestock at the site. Security is also cited as a concern. In these regards, the Appellant has put it to me that the essential need to be on site at most times arises from the combination of tasks and risks to be managed at the site.
10. As noted above, permission for the temporary siting of a mobile home was granted at appeal in 2017 (the Previous Appeal). The evidence before me indicates that the Previous Appeal considered whether there would be an essential need to be at the site, with the conclusion that both the Appellant and the DNPA agreed "that if the enterprise were to develop as proposed then there would be an essential need for a worker to live on site", a finding that was agreed by the Inspector in that appeal.
11. Based on the evidence provided in both written and verbal submissions, it does appear that the enterprise has developed as proposed in terms of vegetable and horticultural production and in respect of increase in levels of livestock, albeit with some delay being caused by the time taken in relation to the planning appeal process with regards to the Previous Appeal and in respect of

sourcing suitable temporary accommodation. Whilst it is acknowledged that there have also been delays in respect of development of the glamping element of the business, it is noted that the Inspector in the Previous Appeal found that he could not agree that the "loss of this element [of the enterprise] would so tip the balance as to make the enterprise unviable and unlikely to endure, or indeed reduce the required manpower to such an extent so as to remove the essential need".

12. Notwithstanding the conclusions of the DNPA and their agricultural consultant at the time of the Previous Appeal, the DNPA have commissioned a further agricultural appraisal on the present appeal proposal, from an alternative agricultural consultant. It appears from the submissions that that further agricultural appraisal concluded that, whilst acknowledging the findings of the previous agricultural consultant, currently the enterprise would not support an essential need for a worker to be readily available at most times and that the enterprise did not provide sufficient financial return that would allow for a permanent dwelling at the site.
13. In essence, the DNPA's agricultural consultant for this appeal has put it to me that the needs of the enterprise are limited to the keeping and care of a small number of pigs and poultry, and the monitoring and care of the variety of crops at the site. Furthermore, it is maintained that whilst a majority of the labour requirements to carry out these tasks could typically be done during the day, and on some occasion during long working days, other activities could be carried out by automation.
14. Having regard to the written and verbal submissions in this appeal, I would concur that, when taken in isolation, matters such as the propagation, monitoring and care of crops, the care and management of the numbers of livestock at the site, and the security of the site, would not result in an essential need for worker to be on site at most times.
15. However, by reason of the combination of tasks and activities that would need to be attended to at the site, and given that the enterprise would be susceptible to loss from, amongst other matters, damage to crops from pests, wildlife or livestock and which could have a significant impact on production, it could reasonably be concluded that there is an essential need for a worker to be on site most of the time. Whilst automation may assist with some tasks such as the operation of ventilation systems, such methods would not appear to be sufficient with regards to other essential tasks such as the control of pests or to ensure that damage to crops from wildlife and livestock does not occur.
16. The evidence before me indicates that the enterprise has developed as proposed in terms of production and levels of livestock, and this finding that the combination of tasks and requirements would equate to an essential need for a worker to be on site at most times would be consistent with the conclusions of the Inspector when considering the Previous Appeal where it was found that the essential need to be on site would remain even in the event of the loss of the glamping element of the business. Based on the evidence provided and the conclusions of the Inspector in the Previous Appeal, and given that the enterprise does appear to have developed as proposed, I am satisfied that the appeal proposal would accord with the requirements of criterion (ii) of Policy DMD23 of the DMD.

17. Nonetheless, the DNPA has also put it to me that the need for permanent accommodation for a worker at the enterprise could be met by other dwellings within the locality, with the information supplied by the DNPA including details of dwellings available for purchase within Ashburton. However, as noted above, based on the evidence in this appeal and on the conclusions reached by the DNPA and the Inspector in relation to the Previous Appeal, there would be a need for a worker to be on site most of the time.
18. Whilst I concur that some tasks and activities could reasonably be managed whilst residing in nearby Ashburton, this would not be suitable in relation to the welfare of the livestock and in terms of preventing and effectively managing damage caused to delicate crops from livestock escapes and other wildlife. It was noted at the hearing that there has been an occasion when a pig had escaped from its pen for a short time whilst the Appellant occupied the structure at the site. However, living off site would not allow for the Appellant to efficiently and quickly deal with, and manage, any such issues. I therefore find that the appeal proposal would satisfy the requirements of criterion (v) of Policy DMD23.
19. Notwithstanding the above, 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.
20. Details of accounts from self-assessment tax returns were provided to the DNPA in support of the planning application and which show that the business made profits during 2017/18 and 2018/19, with additional financial details for 2019/20 which also showed the rural enterprise making a profit. Additionally, the Appellant submitted a business plan and appraisal to the DNPA which provided projected figures for the periods 2020/21 to 2022/23 inclusive and which indicated that profits would rise to a level which showed that the enterprise could be viable and sustainable. Given that the accounting period for 2020/21 had passed, further information in the form of an income and expenditure account for this period was provided by the Appellant at the hearing.
21. It is apparent from the evidence that the enterprise has been established for at least three years and has made a profit in at least one of the abovementioned years, in compliance with the initial requirements of criterion (iv) of Policy DMD23.
22. However, the DNPA raised concerns about the business which, it is maintained, would be of a subsistence level and below the level of the National Living Wage rate when using the time requirements to run and manage the enterprise, and that the profits generated do not provide a return on investment which would demonstrate that the business has the ability to grow. Whilst I accept that minimum wage requirements do not apply to those in self-employment, consistent with the appeal decision² referred to by the DNPA at the hearing, I would concur that comparisons with minimum wage requirements can provide some indication of the financial viability of the business, albeit such

² Appeal Reference: APP/J9497/W/20/3257310

- comparisons should not be the only factor used in assessing the viability of a rural enterprise.
23. The submitted details indicate that the levels of profit made during the accounting periods up to 2019/20, were not substantial and, whilst it is acknowledged that many self-employed people in agriculture are often effectively working for less than the National Living Wage as applied to those in employment, based on the figures provided for these periods, and even when accounting for personal consumption which was classed as income, in my view the levels of profit indicated that the enterprise had not quite reached a sustainable level.
24. However, as noted above there have been some delays in the development of the business due to the time taken in relation to the planning appeal process with regards to the Previous Appeal and in respect of sourcing suitable temporary accommodation. Despite these delays which would have affected production and profitability, it is clear from the records produced and submissions in this appeal that the enterprise has shown it can return a profit and that profits had steadily increased year on year.
25. Furthermore, as described above, the submissions provided by the Appellant included projected figures for 2020/21, and beyond, which appeared to have been considered on the basis of the expected growth of the enterprise and on reasonable expectations of expenditure and which showed that levels of profits would rise to a level which demonstrated that the enterprise could be viable and sustainable going forward.
26. The details provided at the hearing showed that the actual profits for 2020/21 exceeded those as provided in the financial projections and, even when accounting for any personal consumption, the level of profit from the enterprise would be comparable to the National Living Wage as applied to those in employment. To my mind the evidence demonstrates that the enterprise is currently financially sound. Whilst I acknowledge the concerns raised by the DNPA with regards to the figures provided for the period 2020/21 not having been independently verified, it appears that those accounts provide sufficient detail with regards to reasonable expenditure and, in the absence of evidence to the contrary, I have no reason to doubt the accuracy of those income and expenditure details.
27. In terms of whether the business has a clear prospect of remaining financially sound, whilst I acknowledge the DNPA's concerns regarding the relatively low level of profits up to the accounting period 2019/20, it does appear that profits were rising year on year despite the delays identified above. Current levels of profit from the business exceed those as included within earlier projections and this is despite additional extreme difficulties faced by the enterprise in relation to the sale and supply of produce to local restaurants and loss of glamping income due to the Covid-19 pandemic.
28. The business makes efficient use of the land and has an established customer base with produce sold directly to local restaurants and shops as well as to residents from within the wider surrounding area, thereby maximising profits. To my mind, the above identified factors indicate that not only is there clear prospect of the enterprise remaining financially viable going forward, but also show that the business has the resilience to continue in the face of challenges such as the Covid-19 pandemic. Consequently, I have no reason to doubt that

the enterprise has a clear prospect of remaining financially sound going forward.

29. The Appellant acknowledged the capital investments made in the business. However, there does not appear to be any requirement within local or national planning policy to require that an agriculture trade or business must generate sufficient revenue to recoup any initial investment, or for a certain level of profitability to be achieved. Nonetheless, the submitted financial information indicates that once additional income from the glamping accommodation is included following delays encountered by the Covid-19 pandemic, it is likely that the business would start to provide a return on capital.
30. In light of the verbal and written evidence provided, in this particular instance and based on the specific circumstances of this rural business, for the above reasons I conclude that the appeal proposal would not conflict with Policies COR2 or COR15 of the Core Strategy and would accord with the provisions of Policy DMD23 of the DMD which, together and amongst other things, require that such development is necessary to meet the proven needs of a rural enterprise.

Character and Appearance

31. The existing cabin building at the appeal site is positioned within a small group of structures that support the operations of the enterprise. The materials of construction appear to be timber and dark metal sheeting for the roof. The DNPA have put it to me that the design and building materials used for the appeal building would fail to conserve or enhance the character and appearance of the National Park. Paragraph 176 of the National Planning Policy Framework (the Framework) provides that great weight should be given to conserving and enhancing landscape and scenic beauty within National Parks.
32. The cabin building is a modestly sized, single storey structure, positioned within the site such that it is largely screened in views from the adjacent narrow highway. Views of the site are dominated by the large polytunnel which draws the eye. As noted above, the building is set amongst other structures which retain an agricultural scale and appearance and given that the appeal building is of a similar modest scale and appearance, in my view the appeal building is not of a design that would be incongruous to the character of the site which clearly has the appearance of a working rural enterprise, nor would be harmful to landscape and scenic beauty of the National Park.
33. In terms of materials, I find that the use of timber and metal sheeting for the roof would not be dissimilar to the materials used in the construction of other structures throughout the site or that are used in the construction of agricultural buildings within the surrounding area. Furthermore, it was noted on my site visit that, whilst not appearing as a common feature within the immediate locality, there is an extension to a nearby residential dwelling west of the site which appeared to have been externally clad in timber.
34. For the above reasons, I find that the design and use of materials would be appropriate, being complimentary to the activity of the site as a rural working enterprise. The appeal building is modest in scale and is screened from views from near to the site. In wider views the appeal building would be seen as forming part of the group of structures which exhibit an agricultural appearance.

35. I therefore conclude that the design and materials used for the appeal building would not be harmful to rural character and appearance of the surrounding area, nor would be harmful to the landscape and scenic beauty of the National Park. The appeal proposal would accord with provisions of the Framework and Policies DMD1b, DMD3 and DMD7 of the DMD and Policies COR1 and COR4 of the Core Strategy which, amongst other matters, requires that development conserve and enhance the natural beauty of the National Park and conserve and enhance the character of the local built environment. Furthermore, given the above, the appeal scheme would meet with the general approach to development as set out in the Dartmoor National Park Design Guide (2011) and the English National Parks and the Broads UK Government Vision and Circular 2010.

Conditions

36. At the hearing, conditions which had been advanced by the DNPA in the event that the appeal was allowed, were discussed and agreed. These conditions have been considered against the tests contained within the Framework and advice provided by the Planning Practice Guidance on conditions. Where necessary, and in the interests of clarity and precision, I have altered the wording of the conditions suggested by the DNPA.
37. In these respects, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. An occupancy restriction condition is necessary to ensure that the dwelling serves its intended purpose. Given that the proposal is only acceptable on the basis of there being an essential need for it, contrary to the general presumption against development within the National Park, I am satisfied that there are exceptional circumstances justifying the agreed removal of permitted development rights.

Conclusion

38. For the reasons given and subject to the conditions in the attached schedule, I conclude that the appeal should be allowed.

Mr A Spencer-Peet

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Ms Rachel Sykes

Appellant

Dr Simon Ruston MRTPI

RS Planning & Research
Ltd

Mr Bill Knight BEng (Hons)

Geo Ltd

FOR THE LOCAL AUTHORITY

Mrs Nicola Turner BA (Hons)

Dartmoor National Park
Authority

Mr Dan Meek BSc. (Hons) MRICS FAAV

NPS South West Ltd

DOCUMENTS SUBMITTED AT HEARING

1. Agricultural Assessment produced by NPS South West Ltd dated August 2021.
2. Document entitled Cuddyford Meadow Accounts 2020-21.
3. Copy of Appeal Decision reference: APP/J9497/W/20/3257310

Schedule of Conditions

1. The development hereby permitted shall be carried out strictly in accordance with the Site Location Plan numbered PA03: SYKES20-SLP, Block Plan numbered PA04: SYKES20-BLOCK, and drawings numbered PA05 and PA06: G&R L/NU SK01, valid 10 August 2020.
2. The occupation of the accommodation hereby permitted shall be limited to a person (together with their spouse or partner, children and dependents) solely or mainly working, or last having worked, in the locality in agriculture or forestry, as defined in Section 336(1) of the Town & Country Planning Act 1990 (as amended).
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the building(s) shall be carried out and no extension, building, enclosure, structure, erection, hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwelling hereby permitted, and no windows or roof lights other than those expressly authorised by this permission shall be created, formed or installed, without the prior written authorisation of the Local Planning Authority.