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# Appeal Decision

Site visit made on 1 February 2022

**by Zoë Franks Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 March 2022**

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**Appeal Ref: APP/G2713/C/21/3281641**

**Land at Lovesome Hill, North Yorkshire, DL6 2PB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Peter Farndale against an enforcement notice issued by Hambleton District Council.
- The notice, numbered 18/00277/CAT2, was issued on 2 July 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for the siting of a prefabricated unit for residential use known as Ashle Cottage as indicated with a blue line on the attached plan.
- The requirements of the notice are:
  - (i) Cease using any part of the land for residential use; and
  - (ii) Remove the prefabricated unit from the land.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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## Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## Preliminary Matters

2. The Hambleton Local Plan ('the HLP') was adopted on 22 February 2022 which is part of the development plan to be considered in the determination of this appeal.

## Ground (a) and the deemed application for permission

3. The main issues are whether the development is on a suitable site for housing having regard to the proximity of services, and whether there is an essential need for a dwelling to accommodate a rural worker.
4. The development is the use of the land for the siting of the prefabricated unit for residential use. It is located on the wider agricultural unit consisting of fields and agricultural buildings which is adjacent to Lovesome Hill on the A167 about 4 miles outside of Northallerton.
5. The council have not argued that the development causes harm to the character and appearance of the area or to the living conditions of the occupiers of neighbouring properties.

### *Policy*

6. Policy S1 of the HLP seeks, amongst other things, to ensure that development makes effective and efficient use of land, minimising the need to travel and promoting sustainable modes of transport. The site is on a regular bus route connecting to the nearby towns of Darlington and Northallerton, albeit of a fairly limited frequency throughout the day. However, the appellant's daughter wishes to live on site so that she is close to the farm and livestock, and there will be a reduction in vehicular journeys associated with this work which the Council accepts could necessitate several trips a day during busy times of the year. The use of the land for the siting of the mobile home is therefore not in conflict with this policy.
7. The site is defined as countryside pursuant to Policies S5 and S3 of the HLP as land outside of a defined settlement. Policy S5 seeks to ensure that development protects the character and distinctiveness of the countryside and that it will only be supported where it is in accordance with national planning policy and would not harm the character, appearance and environmental qualities of the area in which it is located. The Council have not argued that the development causes harm to the character and appearance of the area. Nor is it the Council's case that the development causes environmental harm other than the need to travel to services from the site, but this will be offset on this case by the reduction in trips to work needed in order to work on the farm.
8. Policy HG4 of the HLP supports a new dwelling to meet the essential needs for a rural worker to live permanently at or near their place of work where the need relates to a full-time worker and the rural enterprise has been operated for a minimum of 3 years. Whilst this appears to be the case here, the policy also requires that the need could not be met by another existing dwelling or conversion, that the rural enterprise has been demonstrated to be commercially viable and has clear prospects for remaining so and that there is a clearly established need for a continuous on site presence that can only be met by the new dwelling.
9. This policy is in accordance with the National Planning Policy Framework 2021, which is a material consideration, and which advises that the development of isolated homes in the countryside should be avoided unless certain listed circumstances apply, one of which is that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
10. The development is isolated in that it is not within one of the defined settlements in the HLP even though it is located within the cluster of other houses at Lovesome Hill. It is not within walking distance of services other than the village hall, post box and bus route which would only provide for some of the everyday needs of its occupiers.
11. In this case the appellant, who previously farmed the land, lives in a house adjoining the appeal site which is in such close proximity that can be considered as the equivalent to living on the site for the purposes of looking after the animals and running the farm. It is generally accepted that retired farmers are not required to leave their home in order to accommodate the person taking over the running of the farm. However, I was not provided with information regarding whether the farm continues to be commercially viable or whether the need for the additional accommodation could have been met instead through works at the appellants own adjoining property. In addition,

there is no evidence before me of an essential need for a rural worker to live continuously on the site for the purposes of animal welfare, or any other clearly established functional need. The development is therefore in conflict with the HLP and the Framework in these respects.

*Other matters*

12. I have taken into account the personal circumstances of the appellant and the occupants of the development and accord them moderate weight. I have sympathy with the occupants' situation but no evidence regarding the lack of other suitable accommodation in the vicinity was provided. These considerations do not therefore outweigh the conflict with the local development plan and national policy as set out above.

*Conclusion*

13. For the reasons set out above, the development is contrary to the development plan and in the absence of any material considerations of sufficient weight to overcome this conflict I conclude that the appeal is dismissed and planning permission should not be granted.

*Zoë Franks*

INSPECTOR