The Planning Inspectorate

Appeal Decision

Hearing held on 11 January 2023

Site visit made on 10 January 2023

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/M2840/W/22/3294198
Land at Cliffe Road, Easton on the Hill, Stamford, PE9 3NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr D Mitchell against the decision of North Northamptonshire Council.
- The application Ref NE/21/00756/OUT, dated 25 May 2021, was refused by notice dated 6 October 2021.
- The development proposed is permanent farm manager's dwelling to supervise suckler herd.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. An unaccompanied site visit was carried out on 10 January 2023 where the site was viewed from the public highway. It was possible to see the site and the existing agricultural buildings. At the hearing the parties agreed that it was not necessary for a further site visit following full consideration of the main issue.

3. The original application was made in outline with all matters reserved to be considered at a later stage. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.

Main Issue

4. The main issue is whether or not an essential need for a rural worker to live permanently at the site has been satisfactorily demonstrated, with particular regard to the degree to which the enterprise will remain viable for the foreseeable future.

Reasons

Policy Context

5. Policy 13 2 (b) of the North Northamptonshire Joint Core Strategy (CS) sets out that in the open countryside, away from established settlements, permission will not normally be granted for new built residential development, with the exception of dwellings for rural workers at or near their place of work in the countryside.

6. This part of the policy has two requirements, firstly that (i) the dwelling is required to meet the essential need of the enterprise concerned and secondly, (ii) requires development to demonstrate the functional, financial and viability tests are met, these are set out in paragraph 5.41 of the supporting text.

7. The relevant test set out in paragraph 5.41 is the rural enterprise should be established for at least three years, has been profitable for at least one year and is currently financially sound with a clear prospect of remaining so.

8. Paragraph 80 of the National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside, with the exception of where 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 in the countryside.

9. It has been put to me that the need to demonstrate profitability for 1 year is not a requirement of the Framework. However, whilst not referenced in the Framework, the Planning Practice Guidance refers to the degree to which there is confidence that the enterprise will remain viable for the foreseeable future. An indication of whether an enterprise is viable can be provided by demonstrating that a business is profitable and therefore I am content that the policy is consistent with the Framework.

10. I have also been provided with two appeal decisions[1] where the consistency of Policy 13 with the Framework was considered and in both decisions the Inspectors gave full weight to the policy. I have not seen or heard anything in the appellant's evidence which would persuade me to depart from these findings.

Essential Need

11. The appeal site comprises approximately 1.6 hectares of land to the east of Cliffe Road. It forms part of the wider farming business which is currently split 50/50 with the appellant's father, Mr P Mitchell, who lives on another part of the wider holding. Mr P Mitchell is now retired and in the future the farm is to be transferred fully to the appellant, as part of planned farm succession.

12. The wider farm holding comprises 200 hectares, of which 25 hectares is owned, 40 hectares are rented on a Farm Business Tenancy and the remaining 135 hectares are occupied on an Agricultural Holdings Act tenancy.

13. The farm is a mixed arable and livestock enterprise and there are approximately 75 cows calving year round with up to 200 cattle on the holding at anyone time. There is also a flock of 200 breeding ewes and 200 ewe lambs. The livestock are being moved across to the appeal site, where new housing has been constructed.

14. Most of the labour on the farm is provided by the appellant, and one apprentice. It is reasonable to expect a suckler herd of this size to have a worker readily available, especially during the calving periods and whilst housed over winter.

[1] APP/G2815/W/20/3254860/3258402 and APP/G2815/W/21/3267380

15. The Council are also in agreement that there is a functional requirement for a worker to live on the site and that there is no other suitable accommodation available in the locality that would meet this need.

16. Therefore, it has been demonstrated that a dwelling is required to meet the essential need of the enterprise concerned in accordance with Policy 13 2(b) part (i) of the CS.

Financial soundness

17. In support of the appellant's case, I have been provided with one set of accounts for the year ending 5 April 2020. The Council had, as part of an earlier application, also seen copies of the accounts from 2018 and 2019 and had provided a response which gives an overview of these three sets of accounts.

18. The Council's evidence sets out that the farm has not generated a profit in the years 2018, 2019 and 2020 and this is not disputed by the appellant. The reasons for the lack of profits were put down in part to the appellant being unwell for a significant part of that time and therefore contractors were required in order to carry out the farm work, this also led to an unspecified reduction in the livestock which impacted on profits. The appellant has also indicated that they have had to construct new buildings on the site and purchase new machinery which has also affected profit.

19. Whilst it has been put to me that the overall size of the holding, the fact that it has been an established business for a long period of time and is now in the third generation of the family means that it is a viable business and would have been profitable in the past, no evidence has been provided as part of this appeal. Whilst the appellant's agent indicated that it would not be possible to provide previous years accounts, it was understood as part of the discussions at the hearing that these should be available for at least the previous 7 years.

20. Furthermore, the appellant's statement was provided in March 2022, when the accounts for the year ending April 2021 should have been available for consideration, with them needing to be submitted by the end of January 2022. In particular, the appellant set out that they had returned to work during 2020 and therefore there should have been less reliance on contractors but I have not been provided with any up dated evidence to indicate that a profit was achieved in 2021.

21. There also appeared to be nothing within the accounts to demonstrate the points made around the impacts on the profit of the business from farm succession, replacement of machinery and investment through new buildings on the appeal site. These costs are not shown within the submitted accounts.

22. The appellant was a 50% shareholder of the business in 2020 and at the appeal confirmed that this was still currently the case. With the other shareholder also having invested capital into the business in the 2020 accounts.

23. The appellant stated that they had personally invested into the business through the erection of a grain store in 2021, but this was funded privately, and that the proposed dwelling would also be funded in this way. There was also nothing in the accounts to show evidence of purchase of new machinery.

24. The evidence indicates that there has been a continued reduction in the capital accounts in recent years and it is reasonable to conclude that the business could not sustain this in the long term. Whilst I acknowledge that the business is in the third generation of the same family, there is nothing in the evidence before me to demonstrate that the enterprise will remain viable for the foreseeable future.

25. Furthermore, whilst there is no defined threshold of how to demonstrate that an enterprise is viable, it is common sense that it would provide a reasonable living wage and sufficient income to sustain the costs of building and running a dwelling.

26. The appellant has submitted a set of normalised accounts, however these have not taken account of the reduction in the single payment. Whilst these suggest that in a normal year the business would expect to make a net profit of over fifty thousand pounds, this has not been corroborated by anything from the more recent accounting periods to demonstrate that they are accurate. Therefore, I have given them only limited weight.

27. In conclusion, on the basis of the evidence before me, I can not have confidence that the enterprise will remain viable for the foreseeable future, to justify the construction of a permanent dwelling. On this basis, the development is contrary to Policy 13 2(b) part (ii) of the CS.

Conclusion

28. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR

DOCUMENTS PROVIDED DURING THE HEARING

1. Letter dated 26 July 2021 from Reading Agricultural Consultants

APPEARANCES

FOR THE APPELLANT:

Mr Henry Doble MIAgrm MRICS Associate, Acorus
Mr D Mitchell

FOR THE LOCAL PLANNING AUTHORITY

Patrick Reid BA(Hons) MSc MRTPI
Amie Baxter BA (Hons) T&CP MSC Sp MRTPI
Olivia Wojniak BSc (Hons) Assoc RICS ABIAC Agricultural Consultant
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