The Planning Inspectorate

# Appeal Decision

Hearing held on 26 March 2024

Site visit made on 26 March 2024

**by Alison Fish BA (Hons) DipTP MRTPI**

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

**Decision date: 12 April 2024**

**Appeal Ref: APP/J9497/W/23/3335937**
**Little Bracken Farm (road from Oakwood to Drybridge), South Zeal, Devon EX20 2PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr David Littlejohns and Ms Claire Drake against the decision of Dartmoor National Park Authority.
- The application Ref is 0229/23.
- The development proposed is described on the application form as 'proposed development of an agricultural worker's dwelling'.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are:

   - Whether there is an essential need for a full-time rural worker to live permanently at the appeal site;
   - Whether the financial tests associated with the proposed dwelling are satisfied; and
   - Whether the business and land management activity contribute to the conservation or enhancement of the National Park's Special Qualities.

## Reasons

3. In terms of the planning policy context, Strategic Policies 1.1, 1.2, 1.3 and 3.1 of the Dartmoor Local Plan 2018-2036 adopted December 2021 (LP) seek to support the National Park purposes whilst meeting the needs of its communities. Policies direct most development to Local Centres. The main parties agree that the appeal site lies in the open countryside where the development of new housing is necessarily limited.

4. Policy 3.9 of the LP supports rural worker housing in the countryside provided certain criteria are met. There was no dispute between the main parties that subsection 1 of the policy was relevant to the proposal before me. Subsection 1 a) requires that there is an essential need for a full-time worker to live permanently at or near their place or work. Subsection 1 b) requires that the business 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.

Subsection 1 c) requires that the business and land management activity contribute to the conservation or enhancement of the National Park's Special Qualities. These matters formed the main basis for discussion at the hearing and I will deal with each of these in turn before concluding against the policy as a whole.

5. The appellants referred me to Policy 5.8 of the LP as an overarching rural land-based policy but the Authority confirmed that this relates to proposals for agricultural development not dwellings and I agree.

*Essential Need*

6. The appellants took over control of the farm in 2021. The land, building and stock associated with Throwleigh Farm were gifted to the appellants by Mr Littlejohns' father. They purchased additional land so that the total area of owned land is now 48 acres. They rent a further 5 acres and also have common grazing rights. At the hearing, the appellants confirmed that they currently have 126 ewes, 17 replacement ewes, 7 rams and 4 pigs.

7. At the time of the hearing, the appellants were in the lambing season. This involves a minimum of three return journeys to the farm between the hours of 0545 and 2300, with a need to stay through the night on some occasions. Lambing takes place from mid March until early May.

8. If the business develops as the appellants intend, lambing, calving, farrowing and kidding would take place over a longer period in the year amounting to between five and six months. However, the lambing which is currently taking place is over a six-week period. There is a Certificate of Lawful Use[1] for the siting of a touring caravan at the site for purposes ancillary to the agricultural use of the land, which the Authority confirmed would permit residential occupation over the lambing period.

9. Mr Sigg confirmed at the hearing, on behalf of the appellants, that the level of livestock on the farm at present did not amount to a need for a full-time worker but that there were other tasks being undertaken, he said, which were not covered by The John Nix Pocketbook 2023 53rd Edition[2].

10. The appellants have commenced a programme of bracken removal, which covers approximately a third of the land. They use a 'weed wiper' on the most level parts of the farm but due to the steeply sloping topography, have found that pigs have been an effective method of rooting out the bracken allowing parts of the farm to be reseeded for grazing. I heard at the hearing that it will take the appellants between two and three years to get the bracken under control and then it will require on-going management thereafter to keep the bracken down.

11. They have also signed up to the Sustainable Farming Incentive and the Countryside Stewardship which requires works to the stone walls, hedges, fences, coppicing and maintaining the grassland. They have also started to establish box sales for the lamb. To date, they have sold two batches of six lambs. I have no doubt that the appellants are kept busy with this work. However, this can all carried out in daylight hours and does not necessitate someone being on site overnight.

[1] LPA Ref: 0596/04
[2] Used for Standard Man Day Calculations

12. The farm is surrounded on three sides by public rights of way. The appellants explained that because of this, they experience a high level of trespass and dogs bothering the sheep. The appellants also highlighted instances of theft which have been reported to the police. Being off-grid makes the use of CCTV difficult and they highlighted that the dummy cameras they have installed do not appear to be a sufficient deterrent. Gates are padlocked but there have been instances where they have been lifted off their hinges. Living on the appeal site the appellants said, would provide a deterrent. They would be alive to incidents occurring and would be on-site to deal with them immediately.

13. I am in no doubt that if the appellants were to live on the farm, some instances could be dealt with more quickly. However, there is an active presence at the farm at most times during the day to deal with instances that may arise. The erection of a dwelling to act as a deterrent would not be a proportionate response to the security needs of the enterprise. It would not necessarily reduce the incidents referred to by the appellants but I accept that it would enable them to deal with any emergencies that did arise overnight. However, on its own security issues at the farm do not amount to an essential need for a dwelling.

14. The appellants explained at the hearing that there are also practical reasons for needing to live on the farm. Inclement weather may require changes of clothes, they need to be there to accept deliveries and both appellants need to available for urgent tasks requiring a second pair of hands. All of these are made more difficult by their current living arrangements.

15. The appellants own and live in a mobile home on a holiday caravan park approximately five kilometres away. A round trip takes approximately 15 minutes. Travelling between the mobile home and the farm therefore takes time and there are the associated fuel costs. It also hampers every day living as there is no facility in the mobile home to wash and dry clothes, they cannot charge batteries there for use on the farm and sleep can sometimes be difficult when holiday makers are outside.

16. At the hearing, the appellants highlighted the effects that living in the mobile home is having on their mental health and their ability to foster children. They currently live there year-round at the discretion of the site owner and the lease will expire in 2027 at which point the mobile home will need to be removed from the site. They are reluctant to invest fully into the farm whilst their living arrangements remain uncertain.

17. There would be functional advantages, to both the business and the appellants, to living on site. It would be more practical and efficient to live at the farm, there would be personal benefits to the appellants and security would no doubt be improved. However, even taking these benefits together, this does not amount to an essential need for a full-time worker to live permanently on site. This is particularly in light of the number of livestock currently on the farm and that the need to be present at most times of the day is seasonal relating to the six week lambing period. Accordingly, the proposal is contrary to subsection 1 a) of Policy 3.9 of the LP as an essential need for a full-time worker to live at the farm has not been sufficiently demonstrated.

*Financial Tests*

18. Subsection 1 b) of Policy 3.9 of the LP requires that the business 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.

19. The appellants confirmed at the hearing that the entirety of the business was transferred from Mr Littlejohns' father when they took control. This included the ownership of the land and the sheep flock. Mr Littlejohns worked on the holding and there was always an intention that the business would pass to him on the retirement of his father. The ewes are now an aging flock which the appellants intend to regenerate over time. The appellants changed the trading name of the business to Little Bracken Farm as part of a rebranding exercise, bought additional land and plan to develop a mixed livestock enterprise. They argued at the hearing that rather than amounting to a new business, this was a new chapter in diversifying the existing business and I agree. I conclude that the business has been established for at least three years.

20. Turning to the issue of profitability, the appellants' unaudited accounts for the period up to April 2023 show a not insubstantial loss. The letter from the accountant also shows losses in the preceding two years prior to the appellants taking control. At the hearing, the appellants confirmed that this was as a result of Mr Littlejohns' father winding down and that in the years prior to that, the business had operated at a profit for twelve out of the previous twenty years. From the evidence, it is clear that the business has not turned a profit since the 2019/20 tax year and even then, the extent of that profit is unknown. Whilst there is evidence that that business has been profitable for at least one year, that was in excess of four years ago. For these reasons, I conclude that the business is not currently financially sound.

21. I do not doubt the drive and commitment of the appellants to realise their business plan. Their 'Projected Business Performance' figures[3] for the year beginning April 2027 indicate that the business would be in profit. They have already made significant investment into the business without borrowing and are clearly passionate about moving the business forward. I also understand that it is a bit of a 'chicken and egg' situation whereby the appellants are reluctant to invest significant sums of money into the business whilst there is uncertainty over their living arrangements. However, the relevant test for a permanent dwelling is that the business should be demonstrably financially sound now and I have found that it is not.

22. In summary of the above, I have found that the business has been established for at least three years. However, it has not been profitable since the 2019/2020 tax year and is not currently financially sound with the latest accounts indicating that the business made a loss. Accordingly, the proposal is contrary to subsection 1 b) of Policy 3.9 of the LP which requires that the business 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.

*National Park's Special Qualities*

23. Subsection 1 c) of LP Policy 3.9 requires that the business and land management activity contribute to the conservation and/or enhancement of the

[3] At Paragraph 6.2 of the Agricultural Needs Assessment by ESUS Agri Ltd

National Park's Special Qualities. At the hearing, I heard that farming hardy animals such as sheep and the presence of scattered farmsteads are a key part of the National Park's (NP) cultural heritage, landscape and distinctiveness.

24. The appellants are currently undertaking a programme of bracken removal and re-seeding, hedgerow planting, coppicing, stone walling, fencing and land management. I also heard at the hearing that their plans to develop a mixed farm would have wider benefits to flora and fauna. These are all enhancements which would arise from the appellants' farming activities.

25. The 2010 Circular[4] refers to NP's as a living and working landscape where natural beauty has been influenced over the centuries by human activity such as farming and land management activities. It refers to the communities in NP's being critical to their sustainability and a fundamental part of their character.

26. The appellants play an active role in the Commoners Association and the overall management of the common land. Mr Littlejohns is the third generation of his family to farm the land and their proposals would benefit other local businesses. They clearly have the support of local people who refer to, amongst other things, their drive, passion and ability, the need for food security and the importance of a new generation taking on and developing a farm which can be sustained for future generations. This all accords with the 2010 Circular.

27. Taken together, I find that the business and land management activities undertaken at the appeal site do contribute to the conservation and enhancement of the National Park's Special Qualities in accordance with criteria 1 c) of Policy 3.9 of the LP.

*Overall Policy Findings*

28. Notwithstanding my findings at paragraph 27 above, I have found that an essential need to live permanently at the farm has not been demonstrated and that the business is not currently financially sound. The proposal amounts to an unjustified dwelling in the open countryside of the National Park which has the highest status of protection[5] as far as landscape and natural beauty are concerned. The proposal would therefore be contrary to Policy 3.9 and Strategic Policies 1.1, 1.2, 1.3 and 3.1 of the LP in relation to the location of housing and the protection of the NP.

## Planning Balance

29. I have set out above the benefits arising from the appellant's business and land management activities and I give these significant weight. I have also given significant weight to the need to support economic growth and productivity as set out in Paragraph 85 of the Framework. This seeks to build a strong and competitive economy by creating conditions where businesses can invest and expand. In addition, I have had regard to Paragraph 88 of the Framework which promotes the sustainable growth and expansion of rural businesses and the development and diversification of agricultural businesses.

[4] English National Parks and the Broads – UK Government Vision and Circular 2010 (March 2010)
[5] Together with The Broads and Areas of Outstanding Natural Beauty (Paragraph 182 of the Framework)

30. I have concluded that the business has been established for at least three years and passed to the appellants from Mr Littlejohns' father. This therefore amounts to succession farming. However, it does not automatically follow that a permanent dwelling should be permitted.

31. Paragraph 84 of the Framework permits new dwellings in the countryside including for those taking majority control of a farm business where there is an essential need for a rural worker to live permanently at their place of work. I have set out above that an essential need has not been demonstrated. As such, the proposal would fail to accord with the provisions of the Framework with regards to isolated homes in the countryside.

32. I have found that the proposal would conflict with the development plan. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. The cumulative benefits of the proposal although significant are not of sufficient strength to outweigh the conflict with the development plan.

33. I have been provided with a signed Unilateral Undertaking which effectively ties the appeal dwelling to the land comprising Little Bracken Farm. However, given my findings on the main issues, it is not necessary for me to consider this further.

**Conclusion**

34. The proposed development is contrary to the development plan as a whole and the identified material considerations do not outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

*Alison Fish*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

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| Mrs E Heydon | Atticus Planning |
| Mr A J Siggs | ESUS Agri Ltd |
| Ms C Drake | |
| Mr D Littlejohns | |

FOR THE LOCAL PLANNING AUTHORITY:

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| Mr D Kinsella | Director of Spatial Planning |
| Mr D Meek | South West Norse |

INTERESTED PARTIES:

Mr J Mawle

**DOCUMENTS PRESENTED DURING THE HEARING**

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| DOC1 | Housing Supplementary Planning Document pages 35-40 inclusive and page 44 |