
Appeal Decision

Hearing held on 28 June 2016

Site visit made on 28 June 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 21 July 2016

Appeal Ref: APP/Y2736/W/16/3143856

Land to the south of the village hall, Thornton le Clay, York, North Yorkshire, YO60 7TG

- 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 Henry Mook against the decision of Ryedale District Council.
 - The application Ref 15/00859/FUL, dated 20 July 2015, was refused by notice dated 2 December 2015.
 - The development proposed is the erection of a detached dwelling and associated detached garage for local occupancy
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application subject to this appeal was originally submitted as a house for local occupancy. During the Council's consideration of the application the appellant provided additional information so support the scheme on the basis of its occupancy by a rural worker. Accordingly, I confirm that I have considered the appeal as a proposal for an agricultural worker's dwelling.

Main Issues

3. The main issues in this case are as follows:
 - Whether, having regard to national and local planning policies that seek to avoid isolated new homes in the countryside and achieve sustainable patterns of development, there is an essential need for an additional dwelling to accommodate a rural worker; and
 - The effect of the proposal on the character and appearance of the surrounding area.

Background

4. The appellant lives at Rice Hill Farm with his parents and has worked on the mixed arable and livestock farm since 2008. The holding incorporates around 800 acres of land in and around Flaxton, Thornton le Clay, Harton and East Lilling. The appellant seeks an additional dwelling to enable him to marry and have his own family home, as well as to provide a house close to the land situated to the north of the railway line which dissects the holding.
-

Reasons

Countryside protection, sustainable patterns of development, and essential need

5. The appeal site is part of a wider field owned by the appellant and is currently occupied by a dilapidated agricultural building. It is outside the development limits defined in the Ryedale Local Plan – Local Plan Strategy (Local Plan) and as such, is within the countryside in policy terms. Paragraph 55 of the National Planning Policy Framework (the Framework) indicates Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
6. Local Plan Policy SP1 advises that in the open countryside development will be restricted to that necessary to support a sustainable vibrant and healthy rural economy and communities. Local Plan Policy SP2 indicates that in the wider countryside new build dwellings will be allowed where they support the land based economy where an essential need for residential development in that location can be justified.
7. The development limits are carried forward from the previous Ryedale Local Plan (2002) and are tightly drawn. The appeal site relates closely to the development limits to the west and to the village generally. As such, even though it is in the countryside in policy terms, the site is not isolated in terms of its relationship to existing built development. Nevertheless, Thornton le Clay is classified as an 'other village' with limited services which include only a pub and a school. There are no opportunities for public transport, and so the future occupiers of the house would be reliant on the private car to meet their day to day needs. This would be at odds with the core planning principle of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Moreover, to allow new residential development here would undermine the Council's spatial strategy and the aim to steer development to sustainable locations, and it seems to me that special circumstances to justify a new dwelling would need to be demonstrated.
8. At the hearing we discussed the issue of essential need, and whether or not the physical demands of the business at Rice Hill farm justify a second permanent residency. The appellant's Agricultural Appraisal finds that the enterprise requires four full time employees and the Council does not dispute this. The Council estimates that the sheep and beef enterprise on its own, equates to a need for 1.3 workers and the appellant does not disagree. I am also satisfied that these estimations seem reasonable.
9. The land associated with the holding at Rice Hill Farm is somewhat disparate and dissected by the railway line which runs east to west. Rice Hill Farm itself, and the land surrounding it, are to the south of the railway as is the appellant's land at Harton. However, a significant amount of the land farmed from Rice Hill Farm at East Lilling, along with that at Thornton Moor, Thornton le Clay and West Lilling, is to the north of the railway. The appellant estimates that around half of the enterprise's land is situated there.
10. Although it is possible to cross the railway via a gated crossing close to the farm on Cross Lane this is relatively narrow and unmade and is difficult for larger vehicles or those with trailers to negotiate. It is also a user operated level crossing whereby anyone crossing with vehicles (or animals) must

telephone the signaller for consent. In practical terms I can appreciate that it not always easy or convenient to negotiate this crossing point. The alternative is to use the level crossing on Rice Lane north of Flaxton which is reached from Rice Hill Farm by a somewhat tortuous route via Cross Lane, York Lane and Rice Lane. As such I accept that to get from Rice Hill Farm to the appellant's land north of the railway is not straightforward and takes some time.

11. A total of 250 breeding ewes and 70 suckler cows and calves (to a total of up to 120/130 cattle) are kept at the holding. These graze on the fields to the north of the railway during the summer and the appellant estimates that 80% of the livestock is kept there throughout the majority of the year. Calving and lambing takes place from January to March in the buildings at Rice Hill Farm when the animals are brought in from the fields. Although the need for farmers to maintain an overnight presence during lambing and calving is widely recognised, in this instance it is a seasonal need contained within 3 months of the year. The need to be on hand day and night is therefore short term, rather than a regular or sustained need. Moreover, this need is already met by the existing farmhouse at Rice Hill Farm which is directly adjacent to the buildings in which the lambing and calving takes place.
12. In the run up to lambing and calving and immediately afterwards, the cows and sheep (along with their calves and lambs) require close monitoring in the fields. During November, December and January pregnant ewes need checking three times a day for signs of distress and illness as well as for feeding. Lambs and calves at foot are checked twice a day once they are back in the fields to ensure they are feeding and thriving and in order to administer medicines. It is on the land to the north of the railway where much of this work, along with the day to day management and care of the livestock takes place. However, I see no reason why these daily checks demand a day and night presence.
13. Taking into account the routes that need to be travelled due to the railway, I accept that the proposed house would for the most part be closer to the land to the north of the railway than the existing farmhouse at Rice Hill Farm. In particular it would be adjacent to the two parcels of land in Thornton le Clay which form part of the holding. However, the proposed dwelling would still be a few minutes drive from the nearest land at Moor Lane to the south and even further from the bulk of the appellant's land at East Lilling. Thus, the proposed house would not be in sight or sound of the majority of the appellant's land to the north of the railway. I acknowledge that the Framework does not necessarily expect rural workers to live directly on the site, and refers to them residing at or near their place of work. However, in practical terms, someone asleep at the proposed dwelling would not be alert to animals in distress in the fields (other than in the paddock immediately adjacent to the proposed house).
14. There would be supervision benefits in being closer to the land north of the railway and more regular checks would be possible. This would also help with security and in addressing issues of trespass and theft. However, whilst journey times and response times to emergencies would be quicker (and I note the appellant's view that five minutes could be critical) for the majority of the land north of the railway I am not persuaded that the time savings as a result of the proposed house would be considerable. I am also mindful that somewhat dispersed land holdings are not uncommon, and have not been made aware of any particular problems encountered by the appellant that have arisen due to the distance of Rice Hill Farm from the land north of the railway.

15. The appellant considers that the proposal would allow better use of the land north of the railway where the soil is lighter and sandier and would provide greater integration to the two parts of the holding. He regards the current situation to be limiting the business and would like to increase the number of suckler cows and introduce new practices including year round calving. He also indicates that the house would allow the possibility of lambing and calving outside, and advises that he could rent more land north of the railway in the future. This aligns with paragraph 28 of the Framework which gives support to economic growth in rural areas in order to create jobs and prosperity.
16. However, whilst I appreciate the appellant's aspirations for the future operation of the enterprise and note his proven experience in this regard, I have seen no substantiated evidence to demonstrate that these plans necessarily rely on the proposed house (particularly since it would not be located in close proximity to much of the appellant's land). Thus, I cannot be satisfied that the expansion of the business as outlined could not take place in its absence. Although I also acknowledge that the location of the proposed house would be more convenient for the appellant's contracting work in the Castle Howard Area, I am not convinced that to travel from Rice Hill Farm would take much longer.
17. The appellant's family has connections with farming in the area going back over 150 years and the proposal would allow succession. The Local Plan seeks to ensure that a stronger emphasis is placed on meeting the housing needs of local people. The appellant has social and business links to local community and an aspiration to marry and have his own family home. Furthermore, the appellant's grandmother lives close to the site at The Paddock. There are no objections to the scheme which is supported by local residents. Whilst these are benefits of the scheme, I am mindful that whether a dwelling is essential depends on the particular needs of the enterprise rather than on the personal circumstances of any individuals concerned.
18. Along with the requirements of the lambing and calving and the day to day tasks described, I acknowledge that problems may arise from time to time that require immediate attention outside of normal working hours, and therefore a permanent presence on site is required. At present this need is met by the existing farmhouse where both the appellant and his parents already reside. As things stand, the appellant's father and mother attend to the animals early in the morning and late at night with the appellant doing the day shift. However, I have seen no compelling evidence to demonstrate that the demands of the business are such that an additional worker needs to readily available at the site at most times, on hand day and night, or to provide regular management input outside of normal working hours.
19. On this basis, whilst I accept that there would be some benefits to the business and particularly to the appellant in having a second dwelling on the farm, overall, the need for two agricultural dwellings has not been demonstrated. Thus, there is no reason why a continued overnight presence by one worker and a daytime presence by another/others would not meet the needs of the enterprise and allow it to continue to function properly. As such, as things stand, the existing farmhouse meets the needs of the enterprise, and a functional need for an additional dwelling on the site has not been demonstrated.

20. At the hearing we also discussed whether there is any alternative accommodation that would meet the appellant's needs. The farmhouse at East Lilling Farm has been sold off separately from the surrounding land farmed by the appellant and is not available. The farmhouse at Station Farm is rented by the appellant's older brother who is not involved in the family farming business. There is a brick barn at Rice Hill which the appellant has considered for conversion but ruled out due to its location within the farmyard and close and direct relationship with the agricultural buildings there.
21. The appellant submitted a list of five bedroom houses in Thornton le Clay and others which have been sold, but limited the search to the village only. The Council has undertaken a wider search to take in the nearby larger settlements of Sheriff Hutton, Strensall and Malton, but the appellant regards these to be too far away. However, it seems to me that the holding could be easily reached from one of a number of nearby settlements, and in the event of an emergency, response times would be relatively quick. This being so, and given that an essential need for a second dwelling has not been established, I see no reason why an existing dwelling nearby could not be utilised to meet the requirements of the business in conjunction with the existing farmhouse.
22. Affordability is also an issue and the appellant regards the cost of adequate local housing to be beyond his means. At the hearing details of a house in Thornton le Clay recently offered for sale at £170,000 was discussed, but was ruled out by the appellant as too expensive (as well as lacking car parking). The Council also referred to building plots available in West Lilling which the appellant also regards to be too expensive. However, it has not been put to me that the funding sources identified for the proposed dwelling would not also be available for the alternative purchase of a house (or plot) nearby. Based on the estimated build costs for the proposed house and the details of the houses and plots for sale provided, I cannot be satisfied that suitable properties in nearby settlements would necessarily be beyond the appellant's means.
23. The proposed house would be funded from the appellant's own savings along with a mortgage. It would be likely to be built in conjunction with a local builder and the appellant would use his own labour and machinery to keep costs down. He estimates it would have a long build time over 2/3 years and would cost £130,000 to build. Whilst the Council would be surprised if this were achievable particularly given the size of the house and its double garage, it offers no evidence to the contrary in terms of alternative build costs.
24. As such, I have seen nothing to demonstrate this is not realistic or that the appellant could not afford it. Nor do I see any reason to think that the build costs would impact on the business or divert money from the enterprise at Rice Hill Farm. Given the protracted build period and his intention to work long hours and weekends, the appellant's involvement in the building work would not necessarily impact on his role at the farm. Whilst I note the Council's concern that the resultant dwelling would be out of financial reach for future agricultural workers, I am mindful that it would be offered at a reduced rate due to occupancy restrictions and have seen nothing to suggest that the appellant would be looking to sell the property which is intended for his own occupation. However, this does not alter my findings in relation to essential need outlined above.

25. I note the appellant's concern that the Council relied on the now superseded advice in Annex A of Planning Policy Statement 7 and in particular the functional needs test. I appreciate that whilst this can be a useful reference point, it is no longer government policy. However, I have seen nothing to suggest that the Council did not consider the submitted Agricultural Appraisal, and confirm in any event that I have made my own assessment as to the whether there is an essential need for the dwelling with reference to paragraph 55 of the Framework.
26. I therefore conclude on this issue that the proposal would not be a suitable development having regard to national and local planning policies that seek to avoid isolated new homes in the countryside and achieve sustainable patterns of development, and that there is no essential need for an additional dwelling to accommodate a rural worker. As such the proposal would be contrary to Local Plan Policies SP1 and SP2 as well as paragraph 55 of the Framework.

Character and appearance

27. The pattern of development nearby is irregular with a variety of house types and set back distances. The houses opposite the appeal site are set well back from the road and the frontage there is more broken and unregimented and is disrupted by the curved road pattern. The appeal site is near to the development limits to the west and relates closely to the rest of the village. I have had regard to the appellant's plan showing the visually defined arc of the developed area of the village into which the appeal site would fall.
28. That said, for the most part, the pattern of development in the village, including on the south side of Low Lane in the vicinity of the appeal site is generally linear. In contrast to this existing development, the proposal would introduce a large detached house with a detached garage in a backland position behind the main built up frontage on the south side of Low Street (as established by the White Swan and the Village Hall). Although there are examples of existing backland development in the village, including at nearby Rosary Cottage, to my mind these are not prevalent and do not unduly undermine the predominantly linear form of the settlement. In any event, I am not aware of the circumstances that led to those historic developments and so cannot be sure that they are comparable to the appeal proposal. As such, they do not in themselves justify further development at depth here.
29. The appellant considers that Local Plan Policy SP2 which allows development in 'other villages' in small open sites in an otherwise continually built up frontage (subject to a local needs occupancy condition) lends support to the scheme. However, since the site is not within the development limits I am mindful that it is not within the village and Local Plan Policy SP2 would not apply. Moreover, because it sits well behind the main frontage to Low Street I do not in any case regard it to be an open site in an otherwise continually built up frontage.
30. I accept that the proposal would not be prominent from Low Street. The curve in the road and the relatively narrow gap between the White Swan and the Village Hall would limit views of it from there. Additionally the appeal site is well screened by existing hedgerows along its boundaries with mature trees on the western boundary. Nevertheless, the substantial form of the proposed house would be evident on the approach to the village from Foston. Even when the hedgerows and trees are in leaf during the summer months, and despite the intervening separation distance, it would be clearly seen over the

hedge and through the gap created by a gated entrance. Although it would be appreciated against the backdrop of the trees and in part the village, it would protrude further southwards beyond the extent of existing development and intrude into the countryside. As such, notwithstanding its generally traditional design, it would alter the character and form of this part of the village and unacceptably undermine its rural character.

31. The proposal would see the replacement of the redundant farm buildings. Although these are somewhat run down, they appear typical of agricultural buildings and do not appear out of place in their rural setting. As such, I do not regard their removal to be a benefit of the scheme.
32. The appellant refers to examples of other new development in the village. I saw at my visit the two new houses built to the west of the White Swan. Although these are not dissimilar in size and design to the appeal scheme, they are sited within the development limits for the village and front Low Street forming part of the linear development there. As such, whilst close by, these existing houses are set in a different context to the appeal proposal. I also saw other examples of new development on High Street and a timber clad building that was under construction opposite the appeal site on Low Street. However, these examples also present a frontage to the road rather than sitting behind existing development. Again, since I am not aware of the full circumstances that led to those developments, I cannot in any case be sure that they are directly comparable with the appeal scheme. I confirm in that regard that I have considered the appeal proposal on its individual planning merits and have made my own assessment as to its impacts.
33. I therefore conclude on this issue that the proposal would be harmful to the character and appearance of the surrounding area. This would be contrary to Local Plan Policy S16 which expects development proposals to reinforce local distinctiveness and respect the context provided by its surroundings. It would conflict with Local Plan Policy S20 which expects new development to respect the character and context of the immediate locality. It would also be at odds with the core planning principle of the Framework to seek to secure high quality design.

Conclusions

34. The Council indicates that it has a five year housing land supply. The appellant does not dispute this, but refers to the presumption in favour of sustainable development. In terms of the three dimensions of sustainable development¹, it seems to me that in economic terms the proposal would bring short term construction work and on going spending associated with additional residents. Local residents refer to the support that the proposal would bring for local businesses. However these benefits would be limited by the small scale of the proposal. Since I have found that there is no essential need for an additional dwelling, and for the reasons set out above, I am not convinced that the proposal's contribution to supporting rural economic growth and creating jobs and prosperity (as required by paragraph 28 of the Framework) would be significant.

¹ As set out at paragraph 7 of the Framework – Economic, Social and Environmental

35. In social terms the proposal would add to housing land supply. Whilst this counts in its favour, its contribution in this regard would again be limited by its small scale for a single dwelling. Thus, overall the scheme would play only a small role in enhancing or maintaining the vitality of the rural community (as required by paragraph 55 of the Framework). Furthermore the proposal would be harmful to the character and appearance of the surrounding area and would thereby fail to contribute to protecting and enhancing the natural environment. Additionally, since I have found that residents would be reliant on private car journeys for most services and amenities, the proposal would fail to meet the environmental role of sustainable development in terms of its approach to pollution, climate change and the move to a low carbon economy.
36. On this basis, and since I have found the proposal to be contrary to the development plan, I do not regard the scheme to amount to the sustainable development that the Framework indicates should be approved without delay.
37. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Henry Mook
Ian Timothy Dykes

Appellant
Planning and Design Associates

FOR THE LOCAL PLANNING AUTHORITY:

Rachel Smith
Jill Thompson

Ryedale District Council
Ryedale District Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Sale details for 3 bedroom semi-detached house on Low Street
Thornton le Clay
- 2 Letter from White and Hoggard Chartered Certified Accountants