



Appeal Decision

Hearing (Virtual) Held on 8 June 2021

Site Visit made on the 10 June 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Appeal Ref: APP/X1118/W/20/3261217

Land at Shutscombe Hill, Brayford, Barnstaple, EX32 7QE

- 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 & Mrs M Coster against the decision of North Devon District Council.
 - The application Ref 66417, dated 11 March 2019, was refused by notice dated 16 April 2020.
 - The development proposed is the erection of one agricultural worker dwelling and associated butchery building.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Coster against North Devon District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are (1) whether, having regard to national and local planning policy that seeks to avoid isolated new homes in the countryside and inaccessible rural locations, there is an essential functional and financial need for a rural worker to live permanently at or near their place of work; and (2) the effect of the development on highway safety.

Reasons

Justification for proposed dwelling

4. The proposed permanent dwelling on the site is explained as necessary so that the occupants can provide welfare for the livestock and security 24 hours a day. However, there is no current livestock at the site near Brayford that would justify a dwelling on the land. Instead, evidence has been provided that this is a business that has been established elsewhere which would be transferred to the site.
5. It is clear from the evidence that the appellants have previously had agricultural businesses based around producing meat products from pigs primarily. This began in 2004 on a site that came under Taunton Deane Council before moving to the Dunkeswell. Accounts have been received for three years covering a period when the business was based in the Blackdown Hills (Dunkeswell) which show a profit being made.

6. Whilst there was a profitable business run by the appellant, it is less clear what has happened since leaving the Blackdown Hills site to the current base near South Molton. I recognise that the Covid pandemic would have made it difficult for business, but it does seem the appellant and his business based around livestock for meat has been relatively inactive recently. This may be due to the lack of the dwelling needed at Brayford or any other agricultural buildings on the land, but in the South Molton area from the evidence provided the current agricultural activity is limited. On this basis, I would not regard the business as being currently established. There was a profitable business, but this is in the past. To my mind, the appellant is seeking to recommence his business on the site that was previously active elsewhere.
7. This is an important distinction, as policy DM28 of the North Devon and Torridge Local Plan states that for a permanent new dwelling there is the need for there to be an enterprise that *is* well established, not was previously established elsewhere. Similarly, paragraph 79 of the National Planning Policy Framework (the Framework) states that planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker. Currently, there is no essential need for a rural worker as there is no substantive agricultural activity on the site and it has not been demonstrated that there is currently such a need elsewhere to be transferred to the site. As such, the proposal is not in accordance with these policies.
8. With regards to the functional need, the evidence provided is theoretical and not based on a current business. Any need would be based on a re-established business at Brayford. I accept that the livestock, butchery and all other associated activities would demand many man hours at the site. However, I am not persuaded that there would be the need for overnight accommodation based on the intended livestock and their welfare. Many of the aspects of work stated by the appellant do not require a worker to be on site overnight, for example the woodland work. Although there may be the occasional need, such as when a pig is farrowing or tending to the lambs, this necessity is limited and would be infrequent to a degree that a dwelling on site is not justified for these purposes.
9. The Rural Workers Dwelling Supplementary Planning Document (SDP) states that "While all rural enterprises may have occasional problems, the frequency and timing of incidents mean that small-scale enterprises are less likely to justify the need for a dwelling." The size of the site would limit any future levels of livestock and this would be a relatively small rural enterprise. With this small-scale enterprise, I am not persuaded that the security of the site and welfare of livestock would require overnight accommodation in the form of a permanent dwelling. I am therefore not convinced that there would be a functional need even if the intended business were to be set up on site as detailed.
10. In regard to the financial tests, I acknowledge that the business was profitable at the Dunkeswell location. However, whilst this is a bigger site at Brayford than previous, it is my view that as these accounts are based on a different location there could be variables which may present themselves if the enterprise is re-established on site which could change matters. I would give the profit levels of an agricultural business elsewhere limited weight when considering the likely profitability at the Brayford site. Likewise, the forecast showing a good level of profitability when operational at Brayford appears to be

based on the business when profitable elsewhere and therefore also carries limited weight. For these reasons, whilst the appellant is clearly experienced in this field of business with local connections, it has not been sufficiently demonstrated that the enterprise would be viable from the appeal site and that it would have clear prospects of being profitable in the future.

11. For these reasons, I conclude that there is not the justification for a dwelling in this rural location based on agricultural need from a viable enterprise. As such, the proposal is contrary to policies ST07 and DM28 of the North Devon and Torridge Local Plan. These policies require development of rural worker dwellings to be in association with an established enterprise and be economically viable and has clear prospects of remaining so, amongst other things.

Highway Issues

12. The agricultural land that makes up the site is accessed off a narrow and steep road known as Shutscombe Hill. There are few passing places and the surface for much of this road has a covering of some loose gravel material. This road meets the busy A399 towards the bottom of the steep slope, with there being a lack of visibility, especially to the right, due to the roadside embankment and vegetation along the side of the A399 in this location.
13. Whilst this road is far from ideal, it is an existing highway which also leads to some other properties. However, from my observations and the evidence provided it is apparent that it has a low level of traffic, which would likely be travelling at low speeds.
14. The proposed development would continue to use the land for agriculture, which could be done currently without needing any planning consent. The main difference would be the butchery and the dwelling. The butchery is not anticipated to result in a significant increase in traffic in itself. The Council Highway Officer at the Hearing raised more of an issue with the additional trips from the proposed house. However, the appellant is proposing to live and work at the site, which would reduce trips. Any likely additional trips would, in my opinion, likely to be at a low level, reducing the chance of vehicles meeting each other on Shutscombe Hill to a relatively rare occurrence. The steepness could cause some issues, especially if wet or icy, but the additional traffic levels would be minimal over and above existing levels or what could occur on site with other forms of agriculture.
15. The steepness and narrowness is not ideal, but for an established rural road I would not consider these aspects to be dangerous given the low traffic levels and speeds.
16. In terms of the junction with the A399, the appellant has proposed enhancing the junction visibility which would be needed. From the evidence before me this would be sufficient to provide the visibility required. I also note that the surfacing towards this junction at the bottom of Shutscombe Hill road appears to be an improvement on that further up the slope, which should help with braking near the junction. From all the evidence, with the improved visibility proposed, this junction would not result in a highway danger as a result of traffic generated by the proposed development.

17. Overall, the proposal would not result in an unsuitable level of traffic generation for the surrounding road networks and would be in accordance with policy DM05 of the North Devon and Torridge Local Plan. This policy requires that development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users, for example. Furthermore, the proposal does not conflict with paragraph 109 of the Framework, as there would not be an unacceptable impact on highway safety, nor have a residual cumulative impact on the road network that would be severe.

Planning Balance

18. The proposed dwelling would support an intended agricultural enterprise at Shutscombe Hill. The enterprise would enhance the local rural economy (possibly with some additional local employment over time), with the business run by experienced people who have made profits through agriculture previously. The dwelling would provide for accommodation for the appellant on site, which would have some security and livestock welfare benefits. Living on site would mean that the appellants would not have to travel to work. Although if allowed there would be a condition tying the dwelling to the business or rural workers, it would provide an additional dwelling to local housing stock.
19. The proposed development would not result in any highway harm and I also note that there would be enhancements proposed with the junction with the A399.
20. Whilst there would be some benefits, some of which are outlined above, the proposal would result in the development of a dwelling in an isolated countryside location, set away from any settlement and having a low level of accessibility. The justification for the dwelling is that there is an essential need for the dwelling primarily for security and the attendance and welfare of livestock, such as the pigs and lambs proposed to be kept at the site. However, there is no established business on site where such an essential need can be justified, and there does not appear to be any current enterprise active elsewhere of significant scale. Furthermore, the evidence submitted does not convince me that there is either a functional or financial need. As such, the result would be a new dwelling in an unsustainable rural location which is not sufficiently justified.
21. On balance, even with the provision of an additional house towards local housing land supply, the harm would significantly and demonstrably outweigh the benefits.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR

APPEARANCES

For the Appellant:

Mr Michael Coster
Mr James Whilding
Mr Graham Townsend - MA, Dip TP, Member RTPi

Appellant
Agricultural Consultant

For the Council:

Mr Peter Rowan Dip TP, MRTPI, Chartered Town Planner - Rowan Edwards Town
Planning & Architecture
Mr Mark Bunt BSc MRICS FAAV - Kivells Liskeard
Mr Paul Young - Principal Highways Development Management Officer

For Brayford Parish Council:

Councillor Liz Bulled
Mr Joe Poole - Clerk
Councillor Mark Padgham
Councillor Brian Symons

Interested Parties:

Mr Malcolm Gardner – Speaking on behalf of some local residents
Mrs Glenys Dart



Costs Decision

Hearing (Virtual) Held on 8 June 2021

Site visit made on the 10 June 2021

by Mr S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Costs application in relation to Appeal Ref: APP/X1118/W/20/3261217 Land off Shutscombe Hill, Brayford, Barnstaple, EX32 7PU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs M Coster for a partial award of costs against North Devon District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of one agricultural worker dwelling and associated butchery building.
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Decision

1. The application for costs is refused.

The submissions for Mr & Mrs M Coster

2. This submission covers several issues. Firstly, there is the claim that the Council was inconsistent with its handling and determination of the planning application, highlighting pre-application advice and also other similar planning permissions granted.
3. The applicant also claims that there were unjustified delays in the consideration of the planning application which resulted in business disruption.
4. The applicant believes the application should have been approved, therefore not needing to go to appeal, but have claimed for costs against reasons for refusal 2 and 3.
5. These reasons, amongst others set out by the applicant, form the basis for the application for costs against the Council.

The response by North Devon District Council.

6. The Council have rebutted all the claims by the applicant, setting out a timetable of the planning application process, its advice towards an application for a temporary dwelling, and that the pre-application was not binding, for example.

Reasons

7. The reasons for refusal, to which this costs claim is based, are Nos 2 and 3, which relate to the issues of essential functional need and financial need for the applicant to live on site in a permanent dwelling. As can be seen from the Appeal Decision, I have found that these are justified reasons for refusal, with

- the Council case set out clearly and with sufficient detail, concluding against planning policy. I do not consider that this is a case where this proposal should clearly have been approved. Furthermore, the use of conditions would not have been sufficient to overcome the issues identified.
8. I recognise that there may have been an inconsistency of advice given through the course of the planning application process (and indeed with the preceding pre-application response), but ultimately the Council has refused the proposal. At the appeal, the Council reasons for refusal have set the basis for the main issues. Inconsistent advice would be regrettable, but it has not been demonstrated sufficiently how this has resulted in costs incurred at the appeal stage.
 9. There may have been cases of some other similar type of development elsewhere, but I have found the Council clear in its reasoning why this case should be refused, based on its merits. There is no substantive evidence to show a particular hostility or set intension to refuse the planning application, whatever evidence may have been submitted to the Council.
 10. The planning application did take some time to determine, but the Council have provided sound reasons for this. In any case, these delays would not have resulted in any additional costs to the applicant at the appeal stage.
 11. Overall, I am not convinced that the appeal could have been avoided, with the Council reasons for refusal not vague, generalised, nor unsupported by evidence.
 12. Considering all the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. For the reasons set out above, any award of costs is not justified.

Mr S Rennie

INSPECTOR