



Appeal Decision

Hearing held and site visit made on 10 July 2012

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 7 September 2012

Appeal Ref: APP/Y1138/A/12/2172238

Ten Oaks, Whitedown Cross, Smeatharpe, Devon EX15 3QA

- 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 Rodney Greenhill against the decision of Mid-Devon District Council.
 - The application ref: 11/01618/FULL, dated 19 September 2011, was refused by notice dated 23 January 2012.
 - The development proposed is: caravan for occupation by agricultural worker for temporary period of 3 years and agricultural track (retrospective) and formation of new track and hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for a caravan for occupation by agricultural worker for temporary period of 3 years and agricultural track (retrospective) and formation of new track and hardstanding at Ten Oaks, Whitedown Cross, Smeatharpe, Devon EX15 3QA, in accordance with the terms of the application, ref: 11/01618/FULL, dated 19 September 2011, subject to the following conditions:
 - 1) The occupation of the caravan shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependents.
 - 2) The caravan shall be removed from the site on or before the expiration of 3 years from the date of this permission and the land shall be restored to its former condition in accordance with a timescale and scheme of work that has first been submitted to and approved in writing by the local planning authority.

Preliminary Matters

2. I have deleted 'retention' from the development description and, in relation to the track, I have substituted 'retrospective' to distinguish between the existing and proposed development. An application for costs, made at the hearing by the appellant against the Council is the subject of a separate decision.

Reasons

Background & Main Issue

3. The appeal proposal relates to a new agricultural enterprise on the appellant's land holding, totalling just over 5 hectares, in a relatively isolated rural setting in the Blackdown Hills Area of Outstanding Natural Beauty (AONB).
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4. The Council's refusal reasons include reference to *Planning Policy Statement 7: Sustainable Development in Rural Areas* (PPS7) but this has since been replaced by the *National Planning Policy Framework* (the *Framework*). Policy COR 18 of the Council's Core Strategy 2026 (CS) seeks to limit development outside identified settlements but amongst other things allows for housing essential to accommodate an agricultural worker, subject to appropriate criteria. In this respect Policy COR 18 is consistent with the *Framework* (most notably paragraph 55) and I therefore give it full weight in this instance. Thus the **main issue** in this appeal is whether or not there is an essential need for a rural worker to live at this countryside location.
5. At the application stage the Council based its assessment on the criteria for agricultural workers' dwellings in Annex A to PPS7, which is no longer in force. Neither the CS nor the *Framework* sets out any criteria or other means of establishing whether or not there is an 'essential' need for such a dwelling. Moreover, neither mentions the option of a temporary permission, which is long-established practice for this type of dwelling. Although the application as submitted seeks consent for a temporary period, it was suggested at the appeal stage that a permanent permission might reasonably be considered.
6. Both main parties agree that the Annex A criteria remain an objective means of assessing the need for a dwelling. I shall therefore have regard to them, whilst bearing in mind there is now no explicit requirement that they be used. With regard to a temporary or permanent permission, the guidance in *Circular 11/95 (The Use of Conditions in Planning Permissions)* remains extant and paragraph 111 (relating to 'trial runs') includes provisions for a temporary permission for a caravan for an agricultural worker. In this case the enterprise has been operating for barely 12 months which, irrespective of the matter of essential need, is not sufficient time to demonstrate the likelihood of long-term success. Therefore, should I conclude there is an essential need to live on site, then a temporary permission would still be the appropriate approach.

Essential Need

7. The appellant and his partner have begun a livestock enterprise buying very young calves and hand rearing them, mainly for onward sale. The caravan is already on the site, close to the substantial barn building (erected by the appellant and for which planning permission has been granted) in which the calves are housed. The Council does not take issue with the appellant's intention or ability to develop the enterprise. Given the information provided, the investment in the building, equipment and other associated items, and achievements to date, including the addition of some lambs to the livestock kept, I find no reason to take a different view in this respect.
8. However the Council and appellant disagree on whether there is a functional need for someone to live on the site and especially on the likely labour requirements. For the latter the appellant relies on the *Agricultural Budgeting and Costing Book (ABC)* and the Council relies on the *John Nix Farm Management Pocketbook (Nix)*. Both are widely used and accepted, but both come with the caveat that their figures are best estimates and/or averages, and so actual figures will vary depending on a whole range of circumstances.
9. In this case, simply for rearing a yearly throughput of 200 calves aged 0-3 months (without allowing for any other necessary tasks) the Council's figure is 172.5 standard man days (SMD) and the appellant's figure is 426 SMD. Given

the appellant's method of hand rearing, I agree it is difficult to understand how feeding and other essential care could be achieved on the basis of the Nix figure of just 2.3 hours per calf per month. On the other hand, there would appear to be some scope to improve the efficiency of the current routine (given the options for heating water even without mains electricity).

10. However I also agree it is reasonable to include other necessary tasks such as general maintenance and grassland management in the overall labour requirement. Therefore, even though the first batch of calves was kept to 6 months of age, and bearing in mind that the barn has been reorganised so that it currently houses 68 calves rather than the 50 originally planned for, I accept that the labour requirement amounts to at least one full-time worker.
11. More significantly, in the case of a temporary dwelling, the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times, including at night. Very young calves are susceptible to infection, such that regular monitoring and prompt intervention are required for the success of the enterprise, and I heard that other emergencies can also arise during the night-time period. Given the nature and scale of the enterprise, I accept it is necessary for a worker to be on hand at night. The security benefits of an on-site presence also weigh in favour of the proposal. I conclude therefore that the functional test is met.
12. Turning to whether the enterprise has been planned on a sound financial basis, initial projections submitted with the application have now been supplemented with sales figures for the initial batch of 26 calves. The values achieved tend to substantiate the appellant's case rather than the Council's views on this matter and the future income projections for years 2 and 3 indicate a reasonable level of net profit. On balance therefore I find sufficient grounds to conclude that this test is met.
13. It is common ground that there is no other suitable and available dwelling in the immediate locality. With regard to the proposal's visual impact on the character and natural beauty of the AONB surroundings, the caravan, existing track and fencing are well screened by existing hedging. Moreover the surrounding countryside is relatively flat, such that the development has little impact on any long range views. Thus I find that no harm is caused to the character of the AONB landscape, nor would the proposed additional track and hardstanding cause any such harm. The Parish Council is concerned about precedent, but it is unlikely that exactly the same combination of circumstances would arise elsewhere and the Council would be able to assess proposals for any other enterprises on the basis of planning policy and other material considerations applicable to each individual proposal.

Conclusions and Conditions

14. In the light of the above and all other matters raised, I conclude overall that an essential need for a dwelling to support the developing livestock enterprise has been sufficiently demonstrated and thus that the proposal does not conflict with CS Policy COR 18 or with the *Framework*. It should be noted that these conclusions do not automatically mean that permission for a permanent dwelling would follow. Some questions do arise in relation to the size to which the enterprise might ultimately grow, given the current absence of any mains services and the likely costs of providing these in due course.

15. Nonetheless, given the clear support in the *Framework* for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis is justified to facilitate the further establishment and development of the livestock enterprise. The appellant should however bear in mind that, in due course, the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and/or development of the enterprise throughout the period of the temporary permission.
16. Conditions restricting occupancy of the caravan and the time period of the permission are needed because the dwelling is only justified in this countryside location on the basis that it is essential to the agricultural enterprise, and that justification will need to be re-assessed in due course, when the enterprise is more established. However, given that this is a retrospective application for the caravan already on the site, I see no need for the suggested condition requiring it to accord with the definition of a caravan in other legislation.
17. Whilst I understand the general aims of the appellant's suggested conditions relating to a future application for a permanent dwelling, a clause suggesting that permission for such a dwelling should not be unreasonably withheld would not accord with the tests for conditions in *Circular 11/95*. A fresh application would be needed for a permanent dwelling, such that conditions relating to its size and to removal of the caravan could be imposed on that permission, if granted, and are not necessary at this stage.

Jane Miles

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tony Overhill	Greenslade Taylor Hunt
John Watts	Olorun Planning Partnership Ltd
R Greenhill & R Noon	Appellant & partner

FOR THE LOCAL PLANNING AUTHORITY:

Thea Billeter BA MA (T & CP)	Planning Officer, Mid Devon District Council
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INTERESTED PERSONS:

A Redwood	Representing Clayhidon Parish Council
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DOCUMENTS

- 1 Appellant's list of suggested conditions
- 2 Copy of Council letter dated 23 March 2012 relating to enforcement matters
- 3 Appellant's written costs application

