



Appeal Decision

Hearing held on 30 July 2013

Site visit made on 30 July 2013

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 4 September 2013

Appeal Ref: APP/H0738/A/13/2193698

Town Farm, Old Stillington, Stockton-on-Tees, TS21 1LX

- 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 S Thompson & Son against the decision of Stockton-on-Tees Borough Council.
 - The application Ref: 12/2168/FUL dated 7 September 2012, was refused by notice dated 9 January 2013.
 - The development proposed is the erection of an agricultural worker's dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural worker's dwelling at Town Farm, Old Stillington, Stockton-on-Tees, TS21 1LX in accordance with the terms of the application Ref: 12/2168/FUL dated 7 September 2012, subject to the conditions set out in the Schedule attached to this decision.

Main Issue

2. At the Hearing the Council said it did not wish to pursue its second reason for refusal relating the sustainability of the location, and I find no reason to disagree. I therefore consider the one main issue in this case is whether there is an exceptional need for the proposed dwelling which is likely to be sustained, so as to amount to exceptional circumstances in the context of local and national policies which seek to restrict new development in the countryside.

Reasons

3. The proposed dwelling would be sited on part of the former garden to the west of the farmhouse, with a frontage to the road. Adjacent to the western boundary of the appeal site is a two-story modern dwelling "Blaid House", with East Farm beyond it. Although part of the small settlement of Old Stillington, the site is outside any defined development limits and is thus classed as open countryside for policy interpretation purposes.

Background

4. S Thompson & Sons has been established for over 60 years and the farm business operates across two sites: Town Farm, Old Stillington, and Southfields Farm, Great Stillington. The combined holding comprises about 215ha of owned and rented land, and the main base has always been Town Farm, where the buildings and land are in the partnership's ownership.

5. The mainstay of the business is the long-established arable and sheep operations, and livestock activity takes place mainly at Town Farm with the arable land spread across both farms. At the Hearing I was informed that the sheep flock now comprises 422 breeding ewes, 10 tups and around 580 store lambs. However, the recently introduced equine enterprise has increasing significance as part of the farm business, and comprises 3 Clydesdale mares, 4 brood mares, 3 Clydesdale thoroughbreds, a Dales brood mare and gelding, and 2 livery horses. Its main focus is the heavy hunter breeding programme.
6. Since the sale of the rented farmhouse at Southfields Farm, Town End Farm is the only dwelling on the combined holding. It is occupied by Mr and Mrs David Thompson, and is not subject to an agricultural occupancy condition. The only other accommodation is the static caravan to the rear of the farmhouse which is occupied by Ms Sally Thompson and her partner Mr Nick Gordon. However, this is now unauthorised following the expiry of a temporary permission relating to its original (non agricultural) function.

Agricultural need

7. The consideration of functional and financial tests was a key component of former national policy set out in Annex A of PPS 7: *Sustainable Development in Rural Areas*. However, it has been superseded by new National policy in the National Planning Policy Framework (*the Framework*). This no longer refers to functional and financial tests *per se*, but says (at paragraph 55) that isolated homes in the countryside should be avoided unless there are special circumstances, such as an essential need for a rural worker to live permanently at or near their place of work. Whether this need is essential in any case will depend on the needs of the enterprise rather than the personal preferences or circumstances of any individuals. A similar requirement is set out in saved Policy ENV5 of the *Stockton-on-Tees Local Plan (LP)*, which says such dwellings will be permitted only where they are necessary for a farming operation. I afford this policy substantial weight as it is consistent with the Framework.
8. The Council do not accept that that the submitted evidence adequately demonstrates that another dwelling on the farm is essential, or that the equine enterprise could operate as a viable business.
9. Based on guidance in the ABC handbook,¹ the appellant's agent says there is a current labour requirement for 1.59 equivalent full-time workers for the sheep operation, and 3.28 for the horses (giving a total 4.87 equivalent full-time workers for livestock management). The consultants appointed by the Council, who based their calculations on the ABC handbook, calculated the labour requirement to be between 1.69 and 1.89 workers for the entire livestock activity. This reduced to between 1.48 and 1.58 by factoring in an allowance for general management duties which might be expected on any farm. The calculations exclude the arable operation, as it was agreed by both parties that this has no bearing on the functional need for a permanent dwelling.
10. The two approaches in interpretation differ widely in terms of labour calculations, and this is partly explained by different inputs being applied to the standard formulae including factors such as length of the working day, allowance for management time, and (in the Council's case) absence of a labour allowance for the care of lambs over 6 months old. Notwithstanding the

¹ Agricultural Budgeting and Costing Handbook 74th edition May 2012

many variables and different approaches of interpretation, it is nonetheless clear to me that the nature and scale of the farming business as a whole gives rise to a labour requirement well in excess of one full-time worker (even based on the Council's lowest estimate).

11. With regard to the sheep enterprise; lambing is a seasonal rather than a year-round operation, with the main activity taking place in spring. However, on this holding it was explained that lambing takes place over a fairly prolonged period, with separate tupping arrangements for two sections of the flock. Whilst it may be possible to alert a farm worker when a problem occurs during lambing, it would take an external worker some time to respond. Whilst the Council suggested the use of temporary mobile accommodation during lambing, this would not cater for the out-of-hours and year-round care of young or sick animals, the extended care of store lambs up to 6 months old, and other welfare issues that can arise at any time. It would be an impractical alternative in my view.
12. With regard to the equine enterprise, there are peaks of activity throughout the year when more labour input is required, not just at foaling times. Factors including the value of the stock, the vulnerability of foals and young horses, the effort required in training them, and the year round activity all make the care of horses more labour intensive per unit of stock than the sheep enterprise. I heard no evidence to question the considerable financial investment and labour input going into this growing business, and it is clearly far more than just a hobby or ancillary activity.
13. Therefore, taking into consideration the large number of animals on the farm, both sheep and horses, the out-of-hours requirement arising from lambing and foaling, the necessity to care for newly born and sick animals, and ongoing welfare issues, I consider there is an essential need for at least one worker to be readily available at most times in sight and sound of the farm buildings. The protection afforded by the presence of a key worker who could respond quickly, would also help to protect against the risk of poaching and help reduce incidents of vandalism. This adds weight in support of the proposal.
14. A very significant material consideration is that the key workers who now undertake the majority of the farming duties are Ms Sally Thompson and a stockman employee who lives in another village. As well as taking almost all responsibility for the equine enterprise, Sally Thompson is now actively involved in lambing and sheep welfare generally. Indeed, her key role has been recognised by her being included in the family partnership agreement. Due to his age and health Mr David Thompson is now no longer able to take a very active role in the practical and heavier farm duties, and although he is still involved in all farm tasks, his role is essentially managerial and financial.
15. Consequently, I consider it would be unreasonable to deny Sally Thompson and her partner separate accommodation, and to expect Mr and Mrs David Thompson to move out of their family home, either now or after full retirement. In this regard I am aware of the judgement in the Keen² case, where the court found it was not reasonable to expect the farmer to leave his house and presumably buy another one elsewhere when a clear need had been established for a new dwelling.

² HC/280 Keen v SSE and Aylesbury Vale District Council

16. I therefore conclude that the essential need for a new dwelling has been justified. Whilst there is a house for sale next to the appeal site, I accept that the asking price is unaffordable to the partnership, and its size excessive for the needs of the farm. Nor are there any suitable buildings that might be suitable for conversion to residential use.

Whether the need can be sustained

17. The Council has referred to the 'financial test' in the former PPS7 whereby the agricultural unit and activity had to be established for three years, profitable for at least one of them, and be financially sound and capable of remaining so. Although there is no longer such a test enshrined in National policy, it is still necessary to assess whether the need for a dwelling is likely to be sustained in the medium to long term. In this case, the sheep and arable farming business has continued for many years, and there is no reason to doubt its continued viability on the basis of the submitted evidence.
18. It is true that the equine business has not shown a working profit to date. However it is anticipated that a profit will be returned from the next financial year onwards when foals begin to be sold. The business has been funded by the partnership and occupies a significant resource in terms of buildings on the farm. Investment in stock has been very significant indeed, and the Business Plan indicates firm commitment to future growth. In any event, I have to consider the need of the farm business as a whole, of which the equine enterprise comprises one part. On the basis of all these factors, I am satisfied that the need for the proposed dwelling is likely to be sustained.

Other matters

19. The size of the proposed dwelling was discussed at the Hearing. It would have a footprint of about 118sqm and a floor area of about 180sqm. Although no guidance is offered in the *Framework* or in LP policy, it is appropriate to ensure that the dwelling is of suitable size to serve the needs of the holding. Although the floor area might be said to be at the 'upper end' of the range, the amount of accommodation is not excessive (three bedrooms, two bathrooms, living room, dining room, kitchen, utility room, and farm office). Therefore, on balance, I do not consider its size is at odds with the particular agricultural circumstances of the case and the need to provide family accommodation.
20. I am aware of the previous 2009 appeal³ by the same appellant concerning the erection of an agricultural worker's dwelling and farm buildings at Southfields Farm. This split decision was dismissed insofar as it related to the dwelling, and allowed in relation to the buildings. The Inspector on that occasion was not convinced there was a need for one or more workers to be readily available at most times, or that the nature and demands of the farm work made it essential for a worker to live at or close to the farm. Significantly however, the National policy background and the farm circumstances have now changed. Furthermore, Mr David Thompson is about to retire from active farm work meaning that the existing farmhouse will no longer be available for the key worker; and Ms Sally Thompson has developed the equine enterprise and is more heavily involved in other farm activities. These are new matters to be weighed in my consideration of the appeal, and Inspectors must make their

³ Ref: APP/N1350/A/2105733

decision based on the evidence before them, with reference to up-to-date policy and other material considerations.

21. I have been referred to many other appeal decisions concerning proposed farm dwellings (permanent and temporary), and related to various sheep, cattle, equine, arable and horticultural enterprises throughout the country. However, the circumstances differ widely in each case, and these decisions have not influenced my reasoning. Each application and appeal falls to be considered on its own merits, and in any event, all these examples pre-date the introduction of the Framework.

Conditions

22. I have considered the conditions put forward by the Council in the light of the advice in *Circular 11/95*. A condition requiring the development to take place in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. However, further details are needed to show the access widened to a minimum of 3.7m in the interests of highway safety. Conditions requiring the submission of full landscaping details and future planting and maintenance are needed in the interests of the appearance of the area, as is a condition to clarify that the external materials shall be as stated on the approved plans.
23. A 'bespoke' agricultural occupancy condition is necessary in view of the mixed nature of the business, and this would not unreasonably constrain future occupancy should a particular component fail or circumstances change. I shall therefore impose a condition to include a person working in either agriculture or the commercial breeding of horses. As discussed at the Hearing, a further condition is necessary to secure the removal of the existing mobile home.
24. The Council has suggested a condition withdrawing permitted development rights for extensions and alterations to the dwelling, the erection of garages, car ports, curtilage buildings, vehicle hard standings, gates, walls, and fences. *Circular 11/95* says such conditions should only be imposed where they would serve a clear planning purpose. The purpose here is to ensure that the dwelling remains of a suitable size to serve the needs of the holding and to be affordable to a rural worker. I shall therefore impose a condition withdrawing permitted development rights, but only insofar as it relates to extensions and alterations to the dwelling. A condition requiring the dwelling to achieve Lifetime Homes Standards and minimum Level 4 of the Code for Sustainable Homes is reasonable, to accord with *Core Strategy* Policy 3.

Conclusion

25. Drawing all these aspects together, I conclude that the nature and scale of the farming operation is tantamount to requiring at least one full-time worker, and that there are clear and genuine farming reasons for the key worker to live at the farm on a permanent basis. This farming need is likely to be sustained in the long term. As such, I find that the proposal accords with the requirements of LP Policy ENV5 and National policy in the *Framework*. Therefore, for the reasons given above, and taking into account all other matters raised in the representations, I conclude that the appeal should be allowed.

Nigel Harrison INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 120307/001; 120307/002; 120307/003; and 120307/004.
- 3) Notwithstanding condition 2 (i.e. the condition requiring the development to be carried out in accordance with the approved plans) no development shall take place until details showing the vehicular access widened to a minimum of 3.7m have been submitted to and approved writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be in accordance with the materials specified on the approved plan No.120307/003, unless otherwise agreed in writing with the local planning authority.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include proposed finished levels or contours; means of enclosure; the car parking layout; vehicle and pedestrian access; hard surfacing materials; minor artefacts and structures; and proposed and existing functional services above and below ground.
- 6) All hard and soft landscape works agreed in accordance with condition 5) above shall be carried out in accordance with a programme agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next season by others of similar size and species.
- 7) The dwelling shall be built to Lifetime Homes Standards and achieve a minimum Code Level 4 of the Code for Sustainable Homes. The dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
- 8) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working in the locality in either agriculture, forestry, or in the commercial breeding of horses, or a widow or widower of such a person, and to any resident dependants.
- 9) The existing mobile home on the appeal site shall be removed from the site within three months of the first occupation of the dwelling hereby permitted.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), the provisions of Schedule 2 Part 1 Class A relating to the enlargement, improvement, or other alteration to a dwelling-house, shall not apply to the dwelling to which this permission relates.

(End of conditions)

APPEARANCES

FOR THE APPELLANT:

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| Stephen Graham Barker | Prism Planning |
| David Thompson | |
| Sally Thomson | |
| Nick Gordon | |
| Ian Cartwright | Hanby & Co |

FOR THE LOCAL PLANNING AUTHORITY:

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| Simon Grundy | Stockton-on-Tees Borough Council |
| Tom Whitehead | Carter Jonas |
| David Boulton | Carter Jonas |

INTERESTED PERSONS:

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| Gary Watchman | Lakeside Stables |
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DOCUMENTS

- 1 Unaudited financial statements and business forecasts 1 August 2012 to 30 June 2013
- 2 Out of Hours Farming Incidents 15 March 2012 to 24 July 2013
- 3 Letter in support from Robin and Julie Anderson: East Farm, Old Stillington