

The Planning Inspectorate

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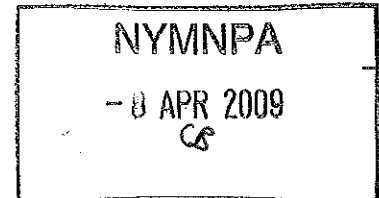
<http://www.planning-inspectorate.gov.uk>

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Mrs F Farnell
North York Moors National Park
Authority
Development Control Support
Officer
The Old Vicarage
Bondgate
Helmsley
York
YO6 5BP

Your Ref: NYM/2008/0598/OU
Our Ref: APP/W9500/A/08/2087370/NWF
Date: 8 April 2009

Dear Mrs Farnell



Town and Country Planning Act 1990
Appeal by Andrew Dixon
Site at Rigg Hall, Stainsacre, Whitby, YO22 4NT

I enclose a copy of our Inspector's decision on the above appeal.

Leaflets explaining the right of appeal to the High Court against the decision, our complaints procedures and how the documents can be inspected are on our website - www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm - and are also enclosed if you have chosen to communicate by post. If you would prefer hard copies of these leaflets, please contact our Customer Services team on 0117 3726372.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

E-mail: complaints@pins.gsi.gov.uk

Yours sincerely

Attila Borsos



COVERDL1

*You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*

NYMNP
- 8 APR 2009



Appeal Decision

Hearing held on 10 March 2009

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

by Mrs K.A. Ellison BA, MPhil, MRTPI

☎ 0117 372 6372
email: enquires@pins.gsi.gov.uk

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

Decision date:
8 April 2009

Appeal Ref: APP/W9500/A/08/2087370

Rigg Hall, Stainsacre, Whitby, North Yorkshire YO22 4LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr A Dixon against the decision of North York Moors National Park.
- The application Ref NYM/2008/0598/OU dated 23 July 2008 was refused by notice dated 29 September 2008.
- The development proposed is an agricultural worker's dwelling.

refused by notice dated
NYMNP

8 APR 2009

Decision

1. I allow the appeal, and grant planning permission for an agricultural worker's dwelling at Rigg Hall, Stainsacre, Whitby in accordance with the terms of the application Ref NYM/2008/0598/OU dated 23 July 2008 and the plans submitted with it, as amended, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The occupation of the dwelling 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 dependants.

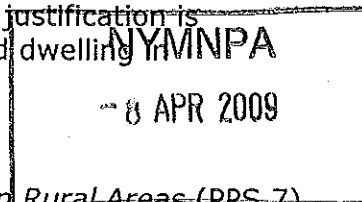
Preliminary Matters

2. The proposal is made in outline with all matters reserved. The Design and Access Statement describes the proposed dwelling as a bungalow, constructed of natural stone with a slate roof. However, the Authority points out that bungalows are not traditional in the National Park and that the buildings at Rigg Hall have pantile roofs. At the Hearing, the Appellant confirmed that the proposal should be amended to one for a two storey dwelling with pantile roof.

I consider that no interests would be prejudiced by this amendment and I have taken it into account in determining the appeal.

Main issue

3. The main issue in this appeal is whether the agricultural justification is sufficient to override the presumption against an isolated dwelling in the countryside.



Reasons

4. Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS 7) Annex A states that applications for new occupational dwellings should be scrutinised thoroughly and, in paragraph 3, sets out a number of requirements which such proposals should meet. It was common ground that the proposal meets the first three of these, namely that a functional need exists, it relates to a full time worker and the agricultural activity is financially sound. Given the amendment to the type and form of dwelling, I consider that the proposal would not conflict with the fifth requirement, that other planning requirements are satisfied.
5. The appeal therefore turns on whether the existing dwelling on the holding can be held to be available. According to the Authority, this dwelling provides for the accommodation needs of the enterprise. For the Appellant, it is argued that it is the family home of Mr & Mrs Dixon and it is unreasonable to expect them to vacate it to make way for an incoming worker.
6. The Appellant's position reflects the findings in *Keen v Secretary of State for the Environment and Aylesbury Vale District Council* ([1996] JPL), an approach which was more recently confirmed in *JR Cussons and Son v Secretary of State for Communities and Local Government* ([2008] EWHC 443). On the other hand, the Authority refers to *Ford and another v Secretary of State for Communities and Local Government* ([2007] EWHC 252). In that instance, even though there was a need for a worker to live on site and the existing dwelling was occupied, a new dwelling was not permitted because the current one was potentially available in the future. The Authority has also referred to the appeal decision which followed on from *Cussons* where planning permission for accommodation for an agricultural worker was not granted, even though the existing dwelling was occupied (APP/W9500/A/06/2029811).
7. In my opinion, these cases can be said to bear on the proposal before me as follows. Firstly, the *Keen* judgement, confirmed by *Cussons*, makes it clear that it is not sufficient for there to be some existing accommodation on site. It is also necessary to examine whether that accommodation can reasonably be held to be available. With regard to *Ford*, I am not convinced of the Authority's argument that its relevance lies in the finding that the existing dwelling was potentially available. In my view, that finding arose from the interpretation placed on a particular policy of the relevant Local Plan. No such policy is in force here. However, what *Ford* does clarify is that the existence of a functional need is not a simple absolute – it is also necessary to have regard to other considerations, where they are material. This would accord with the approach taken by the Inspector in APP/W9500/A/06/2029811.

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8. Currently, the situation is that Mr Richard Dixon lives in Rigg Hall with his wife. According to their doctor, both have osteoarthritis which is expected to get worse with time. Together they have run the farm for many years but, with the passage of time, neither is as able as they once were to carry out the physically demanding tasks necessary to properly care for livestock. The farm is not functioning as effectively as it could and Mr Dixon now wishes to bring in his son, the Appellant, to take care of the stock. Although there are references to Mr R Dixon's retirement, it was stated at the Hearing that he intends to retain overall responsibility for management of the farm and expects to remain actively involved with it.
9. There are also personal reasons why Mr & Mrs Dixon wish to stay at Rigg Hall. The Dixon family has occupied the farm since about 1850 and, except for a handful of absences, this is where Mr Dixon has spent the greater part of his life. Furthermore, I heard that, even if the farm business failed, Mr Dixon would consider various other options rather than leaving his home. From what I have seen and heard, it is clear to me that Mr & Mrs Dixon have no plans to vacate Rigg Hall in the foreseeable future. Given the length of time they have lived there and their plans for continuing involvement with the business, I consider that, in accordance with *Keen*, the current dwelling is not available since it would be unreasonable to require them to leave.
10. However, the Authority makes two points. Firstly, it is implicit in the approach set out in PPS 7 that the close scrutiny of a proposed agricultural dwelling should include consideration of whether the need is long term. This is particularly so in view of the permanent effect which a dwelling would have on the landscape of the National Park, which is subject to the highest status of protection. Secondly, the need relates only to one worker yet this proposal would create a situation where two dwellings were in existence. In Annex A paragraph 1, PPS 7 states that whether a need is essential in any particular case will depend on the needs of the enterprise not the personal preferences or circumstances of any of the individuals involved. People in many walks of life can be faced with difficult choices about where they live, often in connection with their employment, so that the suggestion that Mr & Mrs Dixon should make way for the essential worker is not unreasonable.
11. On the first point I accept that, although there is no specific requirement in PPS 7 to demonstrate that the need for a permanent dwelling is long term, there is an implicit expectation that the need should be enduring, as evidenced, for example, in relation to the test of financial soundness and the prospects of the enterprise. However in this regard, I have already noted that Mr & Mrs Dixon do not appear to have any plans to leave Rigg Hall. In these circumstances, the clear indications are that the need for accommodation will persist for some time to come.
12. On the second point however, I do not accept the Authority's argument. The reference in PPS 7 to personal preferences or circumstances is made with regard to establishing whether the need for a worker to be readily available is essential. The Authority accepts that the need has been established. Paragraph 3(iv), which deals with meeting that need, requires consideration only of whether any other accommodation is suitable and available. In my view, personal preferences or circumstances have no role to play in assessing

whether this particular requirement is met. This would be consistent with the judgements in *Keen* and *Cussons*.

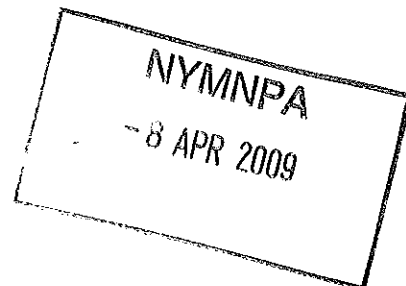
13. In summary therefore, I have found that there is no existing dwelling which can reasonably be said to be available to fulfil the functional need for a dwelling at Rigg Hall. Given that the proposal meets all other relevant requirements in Annex A of PPS 7, I conclude on my main issue that the agricultural justification is sufficient to override the presumption against an isolated dwelling in the countryside. On that basis, I also conclude that the proposal would not conflict with Core Policy A of the recently adopted Core Strategy which, among other things, gives priority to conserving the landscape of the National Park.

Conditions

14. In addition to the standard conditions relating to the submission of reserved matters, I have imposed an occupancy condition to ensure that the dwelling is kept available to meet agricultural need. The conditions are worded in accordance with the advice in Circular 11/95, *The Use of Conditions in Planning Permissions*. A further condition was suggested which related to the materials to be used but would, in my opinion, be unnecessary since this would form part of the reserved matters.
15. For the reasons given above I conclude that the appeal should be allowed.

K.A. Ellison

Inspector



APPEARANCES

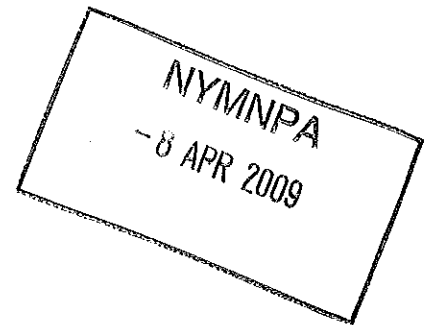
FOR THE APPELLANT:

Mr Ian Pick BSc (Hons)
MRICS

Ian Pick Associates

Mr A Dixon

Rigg Hall Farm



FOR THE LOCAL PLANNING AUTHORITY:

Mr P Sutor BA, DipTP,
MRTPI

Westmoreland Cottage, Hutton le Hole, York



The Planning Inspectorate

An Executive Agency in the Department for Communities & Local Government and the Welsh Assembly Government

21 Century Appeals Service Proportionate, Customer Focused and Efficient

Background

The Planning Act 2008 received Royal Assent on 26 November 2008. One of the main aims of the Act is to improve the speed of the appeals process. The focus is on the principles of proportionality, customer focus and efficiency.

Guidance is being developed and will soon be available on our website. Look out for this at the links overleaf.

The following is a brief overview of the key changes coming into place on 6th April 2009.

• Nature and Content of Appeal Documents

Appellants and local planning authorities (LPA) must ensure that their reasons for refusal and grounds of appeal (GoA) are clear, precise, comprehensive, and that the GoA relate to the scheme as refused at application stage, without substantial changes which could lead to any party being prejudiced. Applicants should not normally proceed to appeal unless all efforts to negotiate a solution with the LPA, including through amending their proposals, have been exhausted. They should be confident at the time of appeal that they have a clear case and do not need to commission further evidence.

• Determining the Appeal Method

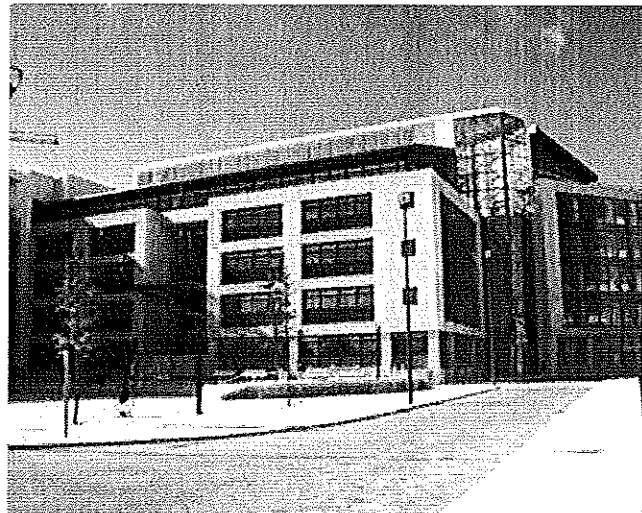
The Planning Inspectorate (on behalf of the Secretary of State for Communities and Local Government) will be able to decide whether planning or enforcement appeals under the 1990 Act should proceed by written representations, hearing or inquiry. The appellant and LPA will have the opportunity to put forward their views on their preferred procedure. Criteria for determining the procedure (indicative) can be found on our website.

• Householder Appeal Service

There will be a streamlined appeal process for householder planning appeals to be determined within 8 weeks. The appeal period for householder appeals will be 12 weeks.

• Meeting the timetables

Once an appeal is accepted and validated by the Planning Inspectorate, it is crucial that all parties adhere to the statutory deadlines at each stage. Parties should also maintain a regular and continuing dialogue to ensure that the issues can be clearly established between them, with no last minute surprises arising.



• Streamlined Appeal Procedures (Statement of Common Ground)

There is new guidance being issued to streamline the appeal process. An example of the new streamlined process is main parties will no longer be able to submit final comments for hearing or inquiries at the 9 week stage, and the statement of common ground will be required 6 weeks after the appeal has started.

• Correction of Errors

The appellant or landowner's written consent will no longer be required to correct an error in a Planning Inspectors decision under the "Slip Rule" (i.e. a minor error that does not materially affect the decision).

• Making Costs Applications

Parties to an appeal will be able to apply for Costs in written representation cases. A revised Circular on Costs is in preparation.

Key Websites

Key websites for information regarding the 21st Century Appeal Service.

21st Century Appeals Service

For a full explanation of all of the changes described overleaf and the latest information on making an appeal using the 21st Century appeals service visit the '21Century Appeals Service' web page on the Planning Inspectorate web site:
http://www.planning-inspectorate.gov.uk/pins/21st_century/index.html

Householder Appeal Service

Information about the new Householder Appeals Service is on the Planning Inspectorate's website:

http://www.planning-inspectorate.gov.uk/pins/appeals/householder_appeals.htm

The Planning Act 2008

To view the actual Planning Act 2008 visit the Office of Public Sector Information (OPSI) website:

http://www.opsi.gov.uk/acts/acts2008/ukpga_20080029_en_1

Making an Appeal

For general information on making an appeal, to follow the progress of an appeal and to submit an appeal online, visit the Planning Portal website:

<http://www.planningportal.gov.uk/pcsl>

