



The Planning Inspectorate

Room 1015
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117-9878629
Switchboard 0117-9878000
Fax No 0117-9878624
GTN 1374-8629

Mrs A Harrison
N Yorks Moors N P Authority
The National Park Officer
The Old Vicarage
Bondgate
Helmsley
YORK, YO6 5BP

Your Ref:

Our Ref:
APP/W9500/A/98/1013518

22 June 1999


Dear Madam

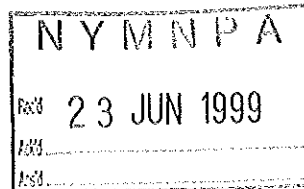
**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MR J R CUSSONS
SITE AT HOWDALE FARM, FYLINGDALES, ROBIN HOOD'S BAY, WHITBY,
YO22 4UL**

The attached decision is in a new format. Traditionally decisions have been issued as a letter. That form of layout has meant that the administrative data, facts about the appeal - including the site address, who made the appeal, the local planning authority - as well as information to support the decision and the decision itself, has been embedded within the text. This new approach is intended to provide a clearer and more customer friendly document.

All the information about the appellant, the LPA, the site, the development and the relevant legislation is now at the top of the first page. The decision itself is also given at the beginning with the reasoning which supports it following. No changes have been made to the way in which the decision is reached; the reasoning behind the decision will remain..

Yours faithfully


Mr T Mather
211B





Appeal Decision

inquiry held on Wednesday, June 16, 1999

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Tollgate House,
Houlton Street
Bristol BS2 9DJ
☎ 0117 987 8927

122 JUN 1999

Appeal: T/APP/W9500/A/98/1013518

- 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 brought by Mr J.R.Cussons against The North York Moors National Park Authority.
- The site is located at Howdale Farm, Fylingdales, Robin Hood's Bay, Whitby.
- The application ref: NYM4/029/0325H/PA, dated 28 September 1998, was refused on 19 November 1998.
- The development proposed is the change of use of existing office/washroom/store to dwelling.

Decision: The appeal is dismissed.

The main issue

1. The main issue in this case is the impact of the proposal on the character of the National Park landscape, having regard to the needs of the farming enterprise.

Inspector's reasons

Planning policy

2. The development plan is composed of the North Yorkshire County Structure Plan, of which Alteration No.3 was approved in 1996, and the North York Moors Local Plan, adopted in 1992. Policies E1 of the former and G1 of the latter reflect the statutory objectives of the designation of the National Park by giving priority to the conservation of the landscape and general amenity of the area. Particular regard must also be had to the social and economic well-being of local communities. In this respect, agriculture is of significant importance and Policies H5 of both Plans reflect national policy in resisting new housing in the countryside unless there is a proven agricultural need in that location.
3. Local Plan Policy F1 points to the need to carefully examine the severance of farm land from an existing dwelling, a matter addressed further by the Authority in its consultation document issued prior to revising the Local Plan. Annex I of PPG7 reflects the care that should be taken to detect attempts to abuse the concession that the planning system makes for agricultural dwellings. The history of this holding is therefore of some significance.

History

4. The holding, which has been farmed by the appellant and his wife for some 34 years, currently comprises 68.4 ha of owner-occupied land at Howdale Farm plus a further 10.1 ha rented under an agricultural tenancy. In addition to the original farmhouse at Howdale, planning permission was granted on appeal in 1988 for a second dwelling some 700m

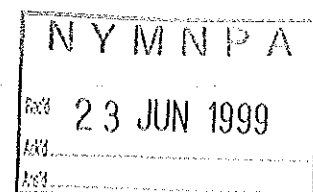
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distant on part of the holding now known as Bridge Farm [ref: T/APP/A2701/A/87/071066/P4]. At that time there was no dispute that an additional dwelling was required to meet the operational requirements of the farm. The fact that the appellant's wife then owned a bungalow on the edge of the farm was not made known to the Inspector at the time. In my view the availability of this dwelling to the appellant's family was capable of being a material consideration in that appeal. Mrs Cussons disposed of that property in 1988, shortly after the above grant of planning permission for Bridge Farmhouse. What has become clear since 1988 is that there was in reality no functional need for a second dwelling on the farm. Bridge Farmhouse was put on the market before it was completed and subsequent attempts have been made to sell it. In 1989, the appellant sold the original Howdale Farmhouse, together with some 4 ha of land.

5. The building which is the subject of the present appeal was erected under the agricultural notification procedure in 1989 as a "chemical/ fertiliser/ farm office/ general purpose building". Some time after that, the appellant and his family began to live there, keeping a "low profile", but applications for a Certificate of Lawfulness in respect of its use as a dwelling were deemed refused in 1995 and refused in 1997. An enforcement notice requiring the cessation of residential use and the removal of associated fixtures, fittings etc was upheld following an appeal in 1997 [ref: T/APP/C/96/P2745/642117+8].
6. The explanation given as to why Bridge Farm and Howdale Farm were marketed is plausible in that the appellant was then attempting to purchase and move to another farm. In the end, this attempted purchase fell through. However, this does not explain why one of the "essential" dwellings, Howdale Farm was actually disposed of and why Bridge Farm was used mainly to house the appellant's daughter, not an agricultural worker, until the appellant and his family moved from the appeal premises in compliance with the enforcement notice. The evidence leads me to the conclusion that the appellant has throughout had ample residential accommodation to serve the needs of the farm holding but has sought to benefit from the concession that the planning system makes for agricultural dwellings and, in the case of the appeal premises, for agricultural buildings. This can only increase the stringency with which I appraise the submitted need for an additional dwelling, particularly given the particular considerations which apply in a National Park.

The functional need

7. There is no dispute that there is an existing functional need for 1 agricultural worker to be housed on the holding. That need is met by Bridge Farm, which adjoins the bull beef building in the northernmost part of the farm. The remaining farm buildings are at Howdale Farm, some 700m distant. They comprise a general purpose building backing on to Howdale Farmhouse, used for storage of straw, food and machinery and for suckler cows and calves; at right angles to this are 2 smaller linked buildings used for straw storage and to house stock; completing the third side of a rectangular yard is the appeal building used partly for storage of tools and machinery and as an office, but largely unused at the time of my visit. A site to the east of the farmstead has been excavated; the Authority raised no objection to the siting of a general purpose agricultural building on this site, following receipt of an agricultural notification. This followed an appeal dismissal in 1998 for a similar type of building. However, I see nothing in that decision letter [ref: T/APP/W9500/A/98/296448/P2] which justifies the appellant's claim that the Inspector's comments in any way lend support to the current appeal proposal.



APPEAL DECISION

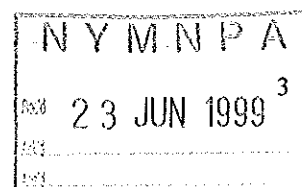
8. The need for a second dwelling is in dispute. It is agreed by both agricultural experts that the suckler cows need the presence of a key worker within sight and sound at most times and especially when calving. However, the means of achieving this and the practicality of supervision from the base of Bridge Farm is not agreed. For the appellant, it was submitted that only on-site living accommodation at Howdale would meet the needs of the enterprise. However, the Authority was able to demonstrate to my satisfaction that a combination of living accommodation at Bridge Farm and the continued authorised use of the appeal building as an office to provide occasional warmth and shelter in winter conditions would adequately meet the needs of the enterprise as it now operates. Although the track between Bridge and Howdale Farms is in places steep and narrow, it is only some 10 minutes' walk uphill and clearly far quicker by vehicle. The Authority's undisputed evidence is that this would not be an uncommon situation on farms, even where there was no on-site office available. Moreover, the use of additional surveillance, such as CCTV appears practical in that only those few cows closest to calving at any one time need the closest attention.
9. Although as requested on behalf of the appellants I have assessed the needs of the farm as it presently exists, I have also borne in mind the stated willingness of the Authority to permit further agricultural building at Bridge Farm, which is a flatter and easier site to develop than Howdale. It also has a more convenient access in inclement weather via the adjoining disused railway line. The appellant has sought to develop here in the recent past and it is quite conceivable that he may again wish to focus his activity here in the future. Taking all the above factors into account, I conclude that there is no functional need for a second dwelling on this holding.

The financial test

10. The financial soundness of the enterprise is disputed by the parties. The ADAS appraisal places particular emphasis on the personal skill of the appellant as a farmer in making this holding viable. Unfortunately, he is unwell and is able to do less of the physical work but that role is being increasingly undertaken by his 19 year old son and the appellant intends to continue to manage the business. Although there has been little investment in agricultural buildings over the years, there has been significant investment in stock and equipment. I have no reason to doubt the word of the ADAS witness who stated that the farm accounts had been examined and showed the business to be viable. Therefore, I accept that the business is viable and will continue to be so for the foreseeable future, subject to the vagaries of the economy and future grant regimes. However, this conclusion is of less significance than my conclusion on the functional test.

The impact of the proposal

11. Although the appeal building is located in a remote position in the open countryside, it adjoins a well-used public right of way, from which it is prominent. The modern farm buildings operated by the appellant are in close proximity to Howdale Farmhouse and, despite this being in separate ownership, it forms the visual focus of the farmstead and reflects the conventional relationship in this area between farmhouse and its associated buildings which forms part of the character of the National Park landscape.
12. The appeal building is faced in natural stone to its 2 most prominent elevations with concrete block walling to those facing towards the hillside and has a red pantile roof. It is of simple, functional design and for that reason falls outside the terms of Local Plan Policy BC12 which allows the conversion to residential use of buildings of architectural or historic



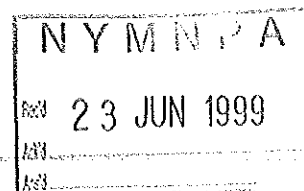
merit which make a significant visual contribution to the landscape and character of the National Park.

13. The appeal building has been occupied as a dwelling in the past, albeit in an unauthorised and "low profile" manner. It is stated that no further alterations would be needed save for plastering and finishing the intended lounge, presently a store room. However, to convert this store room to a lounge would also appear to require the walling up of the large opening currently containing side-hung, timber doors and the likelihood of one or more windows being inserted in that most prominent elevation. Whilst any such alterations could be the subject of detailed control, they would alter the simple, functional appearance of the building in its agricultural context to that of an incongruous domestic building.
14. Other alterations which would be likely to accompany the use of the appeal premises as a dwelling would include the erection of a television aerial, the parking of domestic vehicles and, most significantly, the creation of a domestic curtilage, with associated domestic paraphernalia. The combination of these factors would in my view unacceptably alter the traditional context of the farmstead to the detriment of the character of the landscape. This would be contrary to the purposes of National Park designation and those policies in the development plan which give priority to the conservation of the landscape.
15. To conclude on the main issue, I find that the proposal would unacceptably detract from the character of the National Park landscape as a result of the introduction of a domestic feature into a traditional agricultural context. I have found no convincing need for a second dwelling on this holding, having regard to the planning history and to the functional test set out above, sufficient to outweigh this conclusion.
16. I have taken account of all other matters raised in this case. The appellant claims that 3 cases in the locality act as precedents for allowing this proposal. However, the circumstances of each, were quite distinctive. The Kine Rigg, Staintondale proposal was not for a new dwelling but for a domestic extension which can not be separated from the original dwelling. The case at Ellis Close Farm, Harwood Dale complied with Local Plan Policy BC12. At Hardwick Farm, Harwood Dale, the new dwelling was granted because the existing accommodation was not on a secure tenancy. None of these cases lead me to look at the appeal proposal in a more favourable light. On the contrary, it is of greater concern to me that to allow the present appeal in conflict with the development plan may encourage other landowners to dispose of existing farm dwellings in the expectation of being allowed new dwellings as replacements. This would be capable of causing serious harm to the character of the National Park. None of the other matters raised are sufficient to outweigh my conclusion on the main issue.

Conclusions

17. For the reasons given above I conclude that the appeal should not, on balance, succeed and I shall exercise the powers transferred to me accordingly.

B.S. Rogers



APPEAL DECISION

Appearances.

For the appellant:

Mr T.Hartley of Counsel

He called:

- | | | |
|-------------------|---|--|
| Mrs V.A.L.Cussons | - | Howdale Farm, Fylingdales |
| Mr M.W.Robson | - | Senior Consultant, ADAS Northern,
Lawnswood, Otley Road, Leeds LS16 5PY |

For the National Park Authority:

Mr G.Fell, Solicitor

- North Yorkshire County Council

He called:

- | | | |
|----------------------------|---|---|
| Mr A.W.Purkiss ARICS, MRAC | - | Mouchel North Yorkshire
1 Racecourse Lane, Northallerton DL7 8FN |
| Mr M.Southerton MRTPI | - | Development Control Manager, NYMNPA |

Documents.

- | | | |
|-------|---|--|
| Doc.1 | - | Attendance list |
| Doc.2 | - | Letter of notification and list of persons notified |
| Doc.3 | - | 2 letters from interested persons |
| Doc.4 | - | Letter submitted by Mr Hartley regarding the appellant's health. |
| Doc.5 | - | Appendices to Mrs Cussons' proof |
| Doc.6 | - | Appendices to Mr Southerton's proof. |

Plans

- | | | |
|--------|---|------------------------------------|
| Plan A | - | Plan of appellant's farm holding |
| Plan B | - | Location Plan |
| Plan C | - | Site Plan |
| Plan D | - | Existing farm buildings |
| Plan E | - | Proposed curtilage and car parking |
| Plan F | - | Internal layout |

