



# The Planning Inspectorate

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Your ref:  
BGS/SA/A  
Our ref:  
T/APP/W9500/A/95/254363/P5  
Date:

15 DEC 1995

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY MR D A ANDERSON  
APPLICATION NO NYM4/034/1388B/PA**

1. As you know, I have been appointed by the Secretary of State for the Environment to determine this appeal. The appeal is against the decision of the North York Moors National Park Committee to refuse planning permission for the relaxation of condition no 5 of decision NYM4/34/169A/PA concerning the agricultural occupancy of High View, Ugglebarnby. I conducted a hearing into the appeal on 6 December 1995.
2. I deal with this appeal as one arising from an application for permission under section 73 of the Act. The permission containing the disputed condition was granted on 15 October 1980 and was for the erection of an agricultural worker's dwelling at High Farm, Ugglebarnby. High View is the dwelling that was built under that permission. The disputed condition says "The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed in the locality in agriculture as defined in Section 290(1) of the Town and Country Planning Act, 1971, or in forestry (including any dependants of such a person residing with him), or a widow or widower of such a person." The condition was imposed because the site was in an area where the Committee considered that the new residential development should be restricted to that essential in the interests of agriculture or forestry unless exceptional circumstances otherwise prevailed.
3. High View is located immediately to the north-west of the farmyard of High Farm on the south-west side of the road going through Ugglebarnby, a small settlement where most of the limited amount of development is on the opposite side of the road. The settlement is set in a hilly, pastoral landscape, and there are grass fields immediately to the north-west and south-west of High View.
4. The development plan, ie the approved North Yorkshire County Structure Plan and the adopted North York Moors Local Plan, gives priority in the National Park to landscape conservation and in broad terms seeks to prevent residential development in the countryside unless there are exceptional circumstances such as essential agricultural need. That broad policy thrust seems little different from when the Committee made their 1980 decision.



RECYCLED PAPER

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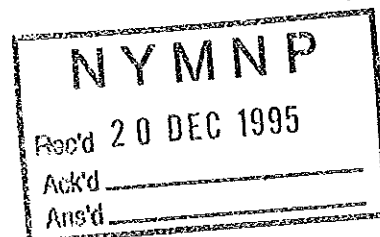
5. Bearing in mind this policy background, from my assessment of the other representations, from the hearing proceedings, and from my inspection of the appeal site and its surroundings, I consider that the decision in this case turns on whether there is any need for the occupation of High View to be limited in the way prescribed by the disputed condition.

6. The appeal dwelling was granted permission solely because there was a proven need for an agricultural worker to reside in the locality. The main parties accept that the disputed condition was appropriately imposed in 1980, and that was also the view of my colleague who in 1992 dismissed an appeal relating to its relaxation. I see no reason to take a different view about the appropriateness of the condition when it was imposed, notwithstanding what I heard about a series of applications between 1970 and 1980 for non-agricultural dwellings here.

7. I note that the appellant used to own High Farm, but he sold it in 1981, when he retired, and he has lived at High View since then. I note also that the Agricultural Development and Advisory Service concluded in 1991 that High Farm, with one dwelling, has an essential need for no more than one worker to live within sight and sound of the unit. There is nothing before me that suggests that this aspect has changed since 1991: so High View is clearly not needed in connection with High Farm now.

8. However, that still leaves the more general connection between the occupancy of High View and agricultural employment, past or present, in the locality. I note that the appellant has sought to sell High View, with its occupancy restriction, over a continuous period going back to April 1991. Nevertheless, the Committee are not satisfied that this marketing demonstrates there is no need for agricultural workers' dwellings in the locality. This is because of their criticisms of the marketing in terms of over-pricing, an inadequate period for marketing, and doubts about the genuineness of the appellant's intentions. Together with the points put to me about the nature of High View itself and the size of the market, these aspects provide the main considerations that lead me to a conclusion.

9. On price, I note that the asking price for High View was £130,000 in April 1991, and has been reduced several times since then, including reductions to £100,000 in March 1993, £74,500 in June 1994 and £69,500 in November 1994, at which price it had remained on the market up to the time of the hearing. Professional estimates of the proper asking price, independent of your own, with the occupancy restriction in place, have been £95,000 by the North Yorkshire County Council's Director of Property Services (DPS) in October 1991 (agreed at the hearing as the equivalent of about £70,000 in December 1995), £70-75,000 by the District Valuer in January 1994 (although no documentary evidence was available at the hearing to support that), and £60-65,000 by the District Valuer in June 1994. My conclusion on this, bearing in mind the margin of error that must attach to any valuation for sale, is that the asking price has been broadly of the right order since the substantial price reduction in June 1994. I am not satisfied by the emphasis placed by the Committee on the greater price reductions between then and November 1995 for other properties being offered by the same selling agents: I believe the differential to be small in relation to the margin of error I have already mentioned, and you explained that in some of the other cases special circumstances applied. Nor do I think there was a cogent explanation for the Committee's preference, in principle, for valuations by the District Valuer. On price, therefore, I think the argument favours the appellant.



10. On the period of marketing, it follows from my remarks in para 9 above that the starting point for proper marketing should be taken as June 1994. I note the Committee's analysis of advertisements by the appellant's selling agents for unencumbered dwellings, from which they conclude that the 18 months since then is too short a period, in the current state of the housing market, for marketing a dwelling with an occupancy restriction. I agree with you that the different practices of individual selling agents may have a bearing on this, and clearly there is a connection with price, but it seems to me that the Committee's analysis on this particular aspect was not seriously challenged.

11. As to the genuineness of the appellant's intention to sell High View with the occupancy restriction, I note the contents of a written witness statement from one of the Committee's staff. This referred to allegations made to him verbally about an instance of the selling agents having been unco-operative and about the appellant's son having indicated at one point that his family had no intention of selling High View at the advertised price. However, the selling agents' diary record indicates to me that they exercised proper diligence, and the appellant's son denied the allegation about his statement. The suggestion at the hearing that a simple misunderstanding arose seems the most likely explanation, and I conclude that no doubt ought to be attached to the genuineness of the appellant's intentions.

12. I saw for myself that High View is a well-appointed, detached, 3-bedroom bungalow built in stone, with attractive views. I have no doubt that it was that sort of assessment that led my colleague to the opinion in 1992 that High View would be unlikely to be affordable by an ordinary farm worker, and that in effect the market then would be restricted to managerial or retired people with the appropriate agricultural background. There is little evidence to suggest that there is a wider market now. Indeed, such evidence as there is suggests the opposite to me. Firstly, you refer to the County Council DPS's statement in December 1994 that he tended to agree with you that there was *no* "agricultural market" then (my emphasis) for the property at what he accepted was the proper price. Secondly, also in December 1994, the District Valuer agreed with your assessment that High View is not saleable with the occupancy condition and said that the asking price is not a relevant factor in the absence of any buyer who qualifies under the agricultural restriction.

13. My analysis in paras 9-11 above suggested that only in terms of length of marketing can the Committee's case be properly supported. But the remarks made by the DPS and the District Valuer mentioned in para 12 above imply to me that marketing even for an inordinately long time would be very unlikely to produce a buyer for High View with its occupancy restriction in place. In those circumstances, I believe the proper conclusion is that the appellant has done enough to demonstrate an absence of need by agricultural workers from the locality for this dwelling. On that basis, I consider there is no need for the occupation of High View to be limited in the way prescribed by the disputed condition.

14. I have taken account of all the other matters raised. I appreciate that, on occasions, interest has been expressed by possible purchasers in buying High View with its occupancy restriction. That is indicated by the selling agents' diary record. But I do not believe the very occasional glimmer of interest or the possible current resurgence in the general housing market outweigh the independent expert views I mentioned at para 12 above. I see no justification for effectively requiring price reductions *ad infinitum* until a buyer is found for High View with its restriction, given those views about the absence of a market. I find the information about applications to the local housing authority, about planning applications for agricultural dwellings in the National Park and, although I sympathise, about the appellant's

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poor health not to be significantly influential in my conclusion. Similarly, it is not the location of High View, near the edge of UGGLEBARNBY rather than in a more remote location, that has led me to my conclusion. At the hearing I raised the question of whether the disputed condition should simply be amended to remove the words "in the locality", but I am not satisfied that is necessary. The Committee do not consider that any conditions need to be imposed if the appeal is allowed, and I accept that. None of the other matters is as important as those that have led to my decision.

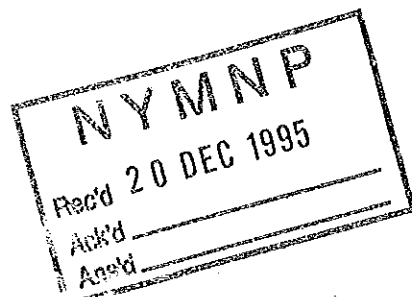
15. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the retention of High View, UGGLEBARNBY, in accordance with the terms of the application (no NYM4/034/1388B/PA) dated 20 November 1994 without compliance with the conditions previously imposed on the planning permission dated 15 October 1980.

16. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



M J Croft MA DipTP MRTPI MIMgt  
Inspector



APPEARANCES

FOR THE APPELLANT

Mr B G Snoxell BA FRICS

- Bell-Snoxell Associates, Barclays Bank House, Baxtergate, Whitby, North Yorkshire, YO21 1BW

Mr M Anderson

- Appellant's son

FOR THE LOCAL PLANNING AUTHORITY

Mr M Southerton MRTPI

- Principal Assistant (Development Control), North York Moors National Park Committee

INTERESTED PERSON

Mrs M Nelson

- Parish Councillor, Eskdaleside-cum-Ugglebarnby Parish Council, Rose Cottage, Ugglebarnby, Whitby, North Yorkshire, YO22 5HX

DOCUMENTS

Document 1 - List of persons present at the hearing

Document 2 - Notifications of the hearing

Document 3 - Bundle of documents submitted with Committee's appeal questionnaire

Document 4 - Bundle of documents (numbered 1 to 16) attached to Mr Snoxell's hearing statement

Document 5 - Bundle of appendices (numbered 1 to 6) attached to Mr Southerton's hearing statement

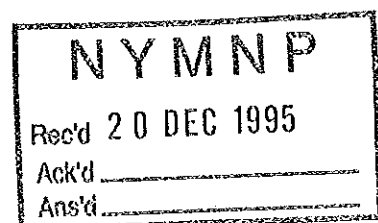
Document 6 - Marketing diary by Colin Brown & Kidson, Solicitors

Document 7 - Letter from Dr F Emad to Mr Snoxell, 29 November 1995

Document 8 - Letter from Clerk, Eskdaleside-cum-Ugglebarnby Parish Council, to Planning Inspectorate, 12 November 1995

PLAN

Plan A - Application plan



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