C/574/WP/P

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Your reference
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T/APP/R4408/A/90/168119/P8
Date
13 FEB 1991

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR J M ARCHER
APPLICATION NO: B/90/0376/HR

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the failure of the Barnsley Metropolitan Borough Council to determine within the prescribed period an outline planning application for the construction of an agricultural worker's dwelling on land at Engine Lane Farm, Shafton, Barnsley. I have considered the written representations made by you and by the Council and also those made by other interested persons. I have also considered those representations made directly by the Parish Council and other interested persons to the Council which have been forwarded to me. I inspected the site on 18 December 1990.

2. From these representations and from my inspection of the site and the surrounding area, in my view, the decision in this case turns on whether having regard to the prevailing planning policies there is sufficient evidence of an agricultural need which would justify the proposal.

3. The appeal site lies at the rear of 13-15 and 17-19 Engine Lane, Shafton within an area designated as Green Belt and is a smallholding of approximately 2.5 acres which contains a number of agricultural buildings erected over a number of years.

4. In 1986 a Planning Permission for an agricultural worker's dwelling on the site was refused and a subsequent appeal was dismissed (Appeal Decision T/APP/B4405/A/87/067671/P5). At that time the Inspector stated that "I am not convinced that a new house is justified on this Green Belt site in terms of the viability of the proposed enterprise." He had also taken the view that the needs of the enterprise could be adequately met in terms of security and supervision by one of two houses on Engine Lane which back onto the appeal site and were, at that time, up for sale. In his opinion that reinforced his conclusion that agricultural considerations did not justify the erection of the house on this Green Belt site.

5. However, in 1987 an application for the stationing of a residential caravan for a period of 3 years was approved. That application contained details of a budget and cash flows for a calf rearing business. MAFF had analysed those details and advised that the proposals "form the basis for full-time employment on the holding". MAFF also advised "In my opinion, none of these dwellings (ie those in Engine Lane) are sufficiently close to enable the occupier to give adequate attention to husbandry and security of the farm buildings, livestock and land".

6. The application, the subject of this appeal, again proposes a farmworker's dwelling but unlike the previous submission is supported by evidence of capital expenditure and viability. MAFF have re-appraised the holding as follows "At the time of my

visit the holding extended to just under 1 ha with approximately 585 m² of building together with a mobile home occupied by Mr Archer and his wife". The appraisal concluded by stating "Using standard labour data currently available, at this level of stocking, there is a labour requirement of approximately one full-time worker. Standard labour data provides a useful guide but takes no account of seasonality, the level investment or the layout of the farm. In the subject case, the low level of mechanisation and the layout of the buildings will mean more man hours will be required than the standard data figure suggests. Calf rearing is a specialist job and requires the attention of a skilled worker. I understand the viability of the business is being dealt with by Accountants. If the business is viable then there is a need for a full-time key worker, who should reside on the holding in close proximity to the buildings, to be on hand to attend to any emergencies, provide continual stock supervision and provide security".

7. So far as viability is concerned, the appellant's Accountants have advised that "We are not instructed to disclose details of Profit and Loss Account or Balance Sheet since these contain details of a personal financial matter. We can, however, confirm that the profits generated from this business for the last available yearly accounts to 30 June, 1989 provide well in excess of the minimum agricultural wage of £5,825 per annum. This level of profitability takes into account depreciation on assets and we are further able to confirm that profits would be able to service the new building works including the construction of a farm dwelling".

8. PPG2—Green Belts - draws attention to the fact that the Government attaches great importance to Green Belts, and points out that the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Inside a Green Belt, approval should not be given except in very special circumstances for the construction of new buildings or for the change of use of existing buildings for purposes other than agricultural and forestry or other uses appropriate to a rural area.

9. Circular 24/73 stipulates that the following factors will be material in assessing whether there is an agricultural need for a farmhouse or cottage on the farm:

a. The viability of the farming enterprise.

b. The labour requirements of the enterprise.

c. How many workers will need to live on the farm.

d. The existing accommodation on the farm and the reasons why it does not meet the needs shown in c. above.

10. DCPN4 points out that a person who wants to build a farm dwelling in a rural area must produce evidence of need to offset the general planning objections to such development. Unless real need can be established the normal planning considerations will prevail.

11. It is accepted that it is for the appellant to show that these requirements including viability are met and the onus is on him to provide sufficient evidence that this agricultural worker's dwelling is justified in the Green Belt.

12. I note that the aforementioned temporary consent for a residential caravan was to allow the appellant to demonstrate whether or not he was able to create a viable agricultural business on the land and because it was accepted on the advice of MAFF then none of the nearby dwellings was sufficiently close to give adequate attention to the agricultural enterprise.

13. Since that consent, in my opinion, the appellant has demonstrated that the unit is viable and that the need for a full-time key worker remains. Furthermore, MAFF have re-stated their view that this worker should "reside on the holding". I also note that when the Planning Officer reported on the application to the Council he stated that "I am satisfied that the evidence in support confirms that the unit is viable and the type of farming enterprise requires the presence of a worker to live close at hand". I agree with that view. Furthermore, I accept the advice from MAFF that whether or not any of the nearby dwellings in Engine Lane are available, they are not sufficiently close to deal with emergencies and to provide continual stock supervision and security.

14. Having considered the representations I am satisfied that from the evidence, and within the terms of Circular 24/73, an agricultural need has been made out and the test of viability indicated therein has been satisfied sufficient to override the normal planning objections against development in the Green Belt.

15. However, without special agricultural need, I would not have been prepared to allow this appeal and I propose, therefore, to impose the normal agricultural occupancy condition on the permission in addition to the standard conditions relating to reserved matters and in the interests of amenity a condition as suggested by the Council to deal with foul drainage.

16. I have taken into account all the other matters raised in the representations including, in particular, the objections and the costings submitted by one of the objectors, but none of them is sufficient to outweigh the considerations that have led me to my decision.

17. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant outline planning permission for the construction of an agricultural worker's dwelling on land at Engine Lane Farm, Shafton in accordance with the terms of the application (No B/90/0376/HR) dated 2 March 1990 and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the building, and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority;

   b. application for approval of the reserved matters shall be made to the local planning authority before the expiration of 3 years from the date of this letter;

2. the development hereby permitted shall be begun either before the expiration of 5 years from the date of this letter, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

3. foul drainage shall be to a septic tank which shall be located, designed and constructed in accordance with BS Code of Practice CP 6298 and no part of the installation shall be closer than 15 m to any habitable building;

4. 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 336 of the Town and Country Planning Act 1990, or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person.

18. An applicant for any consent, agreement or approval required by a condition of this permission and for approval of the reserved matters referred to in this

permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

19. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

I am Gentlemen
Your obedient Servant

RUSSELL BRADLEY Solicitor
Inspector