The Planning Inspectorate

Appeal Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 1st November 2016

Appeal Ref: APP/X2220/W/16/3144652
The Halland, Court Lane, Preston, Canterbury, Kent CT3 1DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Jeffrey T Stickells against the decision of Dover District Council.
- The application Ref DOV/15/01119, dated 18 November 2015, was refused by notice dated 13 January 2016.
- The application sought planning permission for a farmhouse as referred to in an application received on 11 October 1989 relating to Preston Court Farm, Court Lane, Preston without complying with a condition attached to planning permission Ref STD/89/01453, dated 29 January 1990.
- The condition in dispute is No (iv) which states that: 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(i) of the Town and Country Planning Act 1971, or in forestry, or a dependent of such a person residing with him or her, or a widow or widower of such a person.
- The reason given for the condition is: there is a strong presumption against development in rural Kent and the unrestricted use of the dwelling would be contrary to the provision of the Kent Structure Plan which seeks to prevent additional sporadic development in the countryside unless demonstrated to be essential in the interests of agriculture or forestry.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is reasonable and necessary in order to retain a supply of houses for occupation by essential rural workers.

Reasons

3. The Halland is a four-bedroom chalet bungalow and detached garage set in a good-sized plot. It is located outside the settlement boundary of the village of Preston and therefore in planning terms is in the countryside. It was built in 1990 on the basis that it was justified to meet the needs of an agricultural worker. At that time Mr Stickells was farming an area of about 150 hectares, some of which he owned whilst the remainder was rented. However, the holding did not include a farmhouse. The enterprise operated as a mixed farm

of beef cattle, sheep and arable crops. The occupancy condition was imposed on the original permission in order to comply with the relevant planning policy at that time (the Kent Structure Plan) which sought to restrict new dwellings in the countryside to those for which there was an essential need associated with agriculture.

4. Over time some of the rented land was taken back by the owners and much of the remainder was sold to surrounding farms between 2003 and 2005. Mr Stickells is now retired. Although he continues to live in the house, he has only retained ownership of about 5.6 hectares of land immediately around it. Whilst he is not currently seeking to move, Mr Stickells wants the option in the future of either being able to pass the house to members of the family, or to sell it to enable him to move elsewhere when he can no longer manage to maintain a home and garden of this size. However, as the rest of the family do not work in agriculture or forestry they could not live there (without him) and comply with the occupancy restriction.

5. Policy DM1 of the Dover District Local Development Framework Core Strategy seeks to restrict development outside settlement boundaries, whilst Policy DM15 seeks to protect the countryside. The policies are therefore not directly relevant to the removal of the agricultural occupancy condition. As the house is already well-established and screened from the surrounding area, removing the condition would not affect the appearance of the countryside and in this respect would not be harmful. However, a change of occupancy would reduce the number of dwellings that could be available for those working in agriculture, or seeking to do so, and could consequently be harmful to the character of the countryside.

6. I appreciate that The Halland is a short walk from the village of Preston. However, as well as being outside the defined village boundary, it is physically and visually separated from the nearest development by Court Road. Its location, on the southern side of Court Road, links it with the surrounding open countryside and the cluster of buildings that focus on Preston Court and the church, rather than the village. The centre of the village and its facilities, such as the school, public house and shop are some distance away. Development which is currently taking place within Preston is also towards the northern edge of the village. Consequently, the effect of removing the occupancy condition on The Halland would be to create a dwelling in the countryside that would have no functional relationship with the surrounding farming activities and would not be immediately adjacent to existing development. It would therefore be both visually and functionally isolated. This would be contrary to Policy DM15 of the Local Plan and national policy to protect the countryside set out in the National Planning Policy Framework.

7. Annex A of Circular 11/95: *The Use of Conditions in Planning Permissions* remains extant, notwithstanding the publication of the Planning Practice Guidance. This sets out wording of a model condition that restricts the occupation of a dwelling to agricultural workers' and any dependents. It advises that such a condition may be appropriate when supported by restraint policies in the development plan. The development plan would not normally permit the construction of a new house in the countryside and in this case it was only permitted because of a direct link to the operational needs of the farm. Removing the condition and thereby making the house available on the open market should therefore only be considered acceptable when it can be

demonstrated that there is no on-going need for dwellings to accommodate agricultural workers within the area.

8. I appreciate that farming practices have changed significantly during and since the time that Mr Stickells was operating on the surrounding land. For example, I was told that the area primarily used for arable crops is close to the Little Stour river and was initially drained to enable it to be used productively. However, more recently it has experienced flooding. It is therefore now used for summer grazing, but is otherwise 'set aside' and is subject to environmental management. It was established at the Hearing that a significant proportion of the land lies in Flood Zone 3 of the Little Stour river and forms part of the functional flood plan. This area is therefore now farmed very differently from how it was in the past.

9. However, I was also informed that other land that was previously used for beef cattle is now being used to grow vegetables and fruit. Whilst Mr Stickells no longer owns or operates a farm over an extensive acreage, all the land that he previously used appears to be either actively managed or farmed by others in the vicinity. Overall, there was therefore no substantiated evidence to persuade me that the area is being farmed less intensively. Whilst the land is being used for different purposes, there was no information presented to demonstrate that fewer people are working in agriculture in this part of Kent as a result of these changes. Furthermore, the type of farming currently being undertaken in the vicinity does not appear to require someone to be living immediately adjacent to the operation. In these circumstances, The Halland could provide suitable accommodation for someone working in agriculture in the wider locality.

10. At the Hearing I was informed that over the last fifteen years there have been eight applications for agricultural workers dwellings throughout the district, some of which have been for temporary arrangements and two of which were refused. There are currently no such applications in the district. Whilst this suggests that the demand for new properties to serve the needs of agricultural workers is small, it does not amount to conclusive evidence that there is no demand for existing properties. In the absence of an objective assessment to establish the overall need for agricultural accommodation, the only way in which such demand can be tested would be through attempts to sell or rent the property.

11. Mr Stickells accepts that he has not marketed The Halland because he does not wish to move and felt that to undertake such an exercise would be to do so under false pretences. However, in the absence of such a 'market-testing' process it is impossible for me to assess whether or not there is a demand for an agricultural worker's property of this size and likely value in this area. In these circumstances, it is necessary for me to take a precautionary approach. In doing so I have also had regard to the appeal decision that was brought to my attention at the Hearing (Document 1), which related to a similar application to remove an occupancy condition elsewhere in the district.

12. The main purpose of the condition is to ensure that those working in agriculture, where wages have historically been low, have access to accommodation that meets their needs. The removal of the agricultural occupancy condition would significantly increase the potential for selling the property and undoubtedly increase its sale price. It would also result in the

permanent loss of access to that property for those who might be in greatest need of such accommodation. In addition, it could increase the likelihood of applications for new dwellings to be constructed in the countryside, which would be contrary to local and national policy to restrict such development.

13. Drawing the threads of my findings together I accept that the amount of land now associated with The Halland has been significantly reduced and there have been many changes in farming practice since the house was built in 1990. Nevertheless, there is insufficient evidence to demonstrate that there has been a corresponding reduction in the number of people working in agricultural in the locality. Furthermore, in the absence of an appropriate market testing exercise there is no evidence to demonstrate that there is no demand for the property within that specialist market, if offered for sale or rent at an appropriate price. Consequently, it would be premature to remove the occupancy restriction.

14. I therefore conclude that the condition is reasonable and necessary in order to retain a supply of houses for occupation by essential rural workers in this locality and to comply with national and local policy to protect the countryside.

15. For this reason I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jeffrey Stickells

FOR THE LOCAL PLANNING AUTHORITY:

Mr Chris Hawkins BSc DipTP	DHA Planning on behalf of Dover District Council
Mr Richard Lloyd-Hughes BSc EstMan MRICS	Rural Planning Limited

DOCUMENTS SUBMITTED AT THE HEARING

1 Appeal Decision: APP/X2220/A/12/2180351

2 An extract from the Flood Map for Planning (Rivers and Sea) published by the Environment Agency (EA) for the area around Preston.

3 An extract from the Dover District Core Strategy Proposals map showing the EA's flood zones 2 and 3 in the area around Preston.