

Appeal Decision

Site visit made on 10 January 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/Y2736/W/16/3157737

Sauveterre, Low Street, Thornton Le Clay, North Yorkshire YO60 7TG

- 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 & Mrs J White against the decision of Ryedale District Council.
 - The application Ref 16/00011/73A, dated 4 January 2016, was refused by notice dated 2 March 2016.
 - The application sought planning permission for the erection of 1 no. three bedroom dwelling with attached garage, amenity area and parking to include formation of vehicular access without complying with a condition attached to planning permission Ref 13/00600/FUL, dated 25 March 2014.
 - The condition in dispute is No 12 which states that: The dwelling hereby approved shall only be occupied by a person(s) who
 - Have permanently resided in the Parish, or adjoining Parish, for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock; or
 - Do not live in the Parish but have a long standing connection to the local community, including a previous period of residence of over three years but have moved away in the past three years; or service men and women returning to the Parish after leaving military service; or
 - Are taking up full time permanent employment in an already established business which has been located within the Parish for at least the previous three years; or
 - Have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.
 - The reason given for the condition is: A local needs occupancy condition is necessary to ensure that the district can meet its local housing needs in accordance with Policies SP2 and SP21 of the RPLPS.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the disputed condition is necessary and reasonable having regard to the provisions of the development plan and the location of new housing development.

Reasons

3. The appeal site consists of an area of garden land adjacent to the existing dwelling of Sauveterre. Planning permission for a dwelling on the site was
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allowed on appeal in March 2014. The Inspector granted permission subject to a number of conditions, including the disputed condition which she stated was required so that the Council could meet its housing needs in accordance with the Policies of the Ryedale Plan – Local Plan Strategy 2013 (RPLPS).

4. The RPLPS distributes development in accordance with a settlement hierarchy identified in Policy SP1. This identifies Principal Towns, Market Towns and Service Villages as being the focuses for growth. Thornton Le Clay is not within one of these settlement types and is therefore classed as being in the 'Other Villages' category.
5. Development of housing in Other Villages is allowed in certain circumstances as specified in Policy SP2, including infill development subject to a requirement for 'Local Needs Occupancy'. Policy SP21 specifies the requirements of the Local Needs Occupancy Condition. When the dwelling was granted planning permission on appeal, the previous Inspector placed the disputed condition on the planning permission in accordance with these policies.
6. The RPLPS was adopted in 2013 and therefore post-dates the publication of the National Planning Policy Framework (the Framework). The settlement hierarchy complies with the core planning principles of the Framework in focussing significant development in sustainable locations.
7. Policy SP21(g) states that the lifting of occupancy restrictions will be carefully considered on a case by case basis, including any changes in circumstances which mean that the occupancy restriction is no longer applicable. The appellants state that there has been such a change in circumstances since the adoption of the RPLPS which mean that the identified conflict should be set aside and the condition removed.
8. Firstly, they state that since the 2010 evidence base for the examination of the RPLP, in March 2015 there was a housing supply figure of 7.31 years with contributions from development in Main and Service Villages as well as site allocations. However, to my mind, this demonstrates the effectiveness of the Council's housing policies in directing housing development towards the main settlements, and emphasises the need for the disputed condition in accordance with the policies of the RPLPS.
9. Secondly, they state that whilst there was a previous shortfall in the five year supply of housing, the latest housing monitoring report (2014-2015) states that no local occupancy conditions have been granted, lifted or varied despite the RPLPS only being adopted in 2013. However, the absence of decisions in relation to occupancy conditions over the monitoring period does not indicate that the disputed condition is no longer necessary. In particular, no evidence has been provided to me to demonstrate that the Council has approved proposals in contravention of the occupancy restrictions of Policies SP2 and SP21.
10. Thirdly, the Community Infrastructure Levy (CIL) Regulations already consider economic viability and only relate to developments of 6 houses or more. However, the CIL Regulations relate to developer contributions rather than conditions, and are therefore not applicable in this matter.
11. I acknowledge that the condition is restrictive in relation to this site and does not apply to existing housing in the village. However, the condition complies

with the policies of the Council in directing new housing development to the Principal Towns, Market Towns and Service Villages except in specified circumstances. It is therefore reasonable that the condition applies to new housing development in 'Other Villages' such as Thornton le Clay so that it meets local housing needs.

12. I note that the appellants are concerned about the impact of the condition on the market value of the dwelling and the willingness of lenders prepared to provide a mortgage for potential purchasers. However, I am not persuaded that such matters are sufficient to outweigh the proposal's conflict with the policies of the RPLPS.

Other Matters

13. I note the frustrations expressed by the appellants in relation to the advice from the Council, particularly in relation to the effect on market value of the proposal. I have also had regard to the comments raised in relation to administrative errors in the handling of the previous appeal by the Planning Inspectorate. I requested copies of correspondence in relation to this from the appellants' agent, but did not receive a response. However, these are not matters for this appeal which I have determined on its planning merits.

Conclusion

14. I conclude that the condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It therefore meets the tests contained in paragraph 206 of the Framework.
15. For the reasons given above and taking account of all material planning considerations the appeal is dismissed.

David Cross

INSPECTOR