
Appeal Decision

Hearing Held on 18 July 2017

Site visit made on 18 July 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 4 September 2017

Appeal Ref: APP/X1545/W/17/3167028

Honeywood Farm, Honey Pot Lane, Purleigh, Chelmsford CM3 6RT

- 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 A Brown against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/01044, dated 13 September 2016, was refused by notice dated 4 November 2016.
 - The application sought planning permission for an agricultural dwelling without complying with a condition attached to planning permission Ref MAL/3/82, dated 8 March 1982.
 - The condition in dispute is No 3 which states that: *The occupation of the dwelling hereby permitted shall be limited to persons wholly or mainly employed, or last employed, locally in agriculture as defined in Section 290 (1) of the Town and Country Planning Act, 1971, or in forestry, or a dependent of such a person residing with him (but including a widow or widower of such a person).*
 - The reason given for the condition is: *The local planning authority would not be prepared to permit the erection of a dwelling house on this site unconnected with the use of the land or neighbouring land for agricultural purposes.*
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural dwelling at Honeywood Farm, Honey Pot Lane, Purleigh, Chelmsford CM3 6RT in accordance with the application Ref FUL/MAL/16/01044 dated 13 September 2016, without compliance with condition No 3 previously imposed on planning permission Ref MAL/3/82 dated 8 March 1982, subject to the following conditions:
 1. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 2. All access to the dwelling hereby permitted shall be obtained via the existing access to the agricultural holding.

Preliminary Matters

2. The Inspector examining the Maldon District Local Development Plan (MDLDP) recommended, in his report¹, that the MDLDP met the criteria for soundness, subject to main modifications found in his report. The Secretary of State²

¹ Council letter dated 7 July 2017, Appendix 1

² Secretary of State Letter dated 21 July 2017

(SoS) approved the MDLDP after the hearing. In light of this, I provided the parties with additional time to comment on whether the SoS's decision has any bearing on the appeal. My findings take account of their comments and I have considered the appeal against the current development plan policies.

Main Issue

3. The main issue is the effect of removing the condition would have on the provision of agricultural and rural workers accommodation in the district.

Reasons

4. The appellant is seeking the removal of condition No 3 so that the dwelling at Honeywood Farm can be occupied as a residential dwelling by anyone rather than be restricted to a rural worker. The appellant suggests that the disputed condition is no longer necessary or reasonable.
5. The appeal site is a detached bungalow that was built in the 1980s for the use of the farm manager in association with a poultry business. I have no reason to disagree with the parties' shared view that the dwelling has been occupied and functioned in connection with the agricultural use.
6. Honeywood Farm is in the countryside. As a result, residential development in this location would not usually be permitted, having regard to paragraph 55 of the National Planning Policy Framework (the Framework), which seeks to avoid new isolated homes in the countryside, unless there are special circumstances such as: the essential need for a rural worker to live permanently at or near their place of work in the countryside. The proposal was framed and considered by the Council in the context of Policy CC16 of the former Maldon District Replacement Local Plan. Policy CC16 set out specific criteria requiring proof of no further agricultural need for the property; evidence of marketing among the agricultural community for a minimum period of time and at a price to reflect the occupancy condition; and the dwelling to be occupied in connection with agriculture for a period of ten years. These tests remain relevant to my decision, as MDLDP Policies E4 and H7 do not contain such detailed criteria.

Need arising from future use of the site

7. Mr Brown explained that he has and is likely to continue to play a role in the running of a beef livestock farm at Morris Farm. Morris Farm is near to the appeal site. However, Mr Brown confirmed that he will not be involved in the day-to-day running of this family business as he wishes to move to a new home to support his growing family and to move away from agriculture.
8. Honeywood Farm was used for poultry farming. This use is said to have stopped in 2011 when the building closest to the dwelling was vacated by a specialist turkey farmer. This building is being converted, following an appeal decision³, into self-contained dwellings. Five former poultry buildings lie to the rear of the dwelling. The remaining four provide storage facilities for the appellant or are leased out as workshops or for storage. There are also further buildings to the rear of the dwelling which are used for storage and office accommodation by the appellant. Paddocks, occupied by cattle, are to the north-east of the poultry buildings. The cattle are kept by the appellant as a hobby. An elevated public bridleway is to the south. A golf course is beyond.
9. The appellant states that the poultry industry has changed. This has meant

³ Appeal Decision Ref: APP/X1545/W/16/3157810

most small-scale units, such as at Honeywood Farm, becoming poorly located in relation to processing units and due to their size uneconomic to run. Even so, the appellant intended to apply his agricultural knowledge to reinstate the poultry operation after he took ownership of the site in 2013. This has not happened. I heard this is due to very poor state of the buildings originally designed to house poultry. Notably, the buildings no longer contain ventilation systems. Evidence also points to the buildings being unable to comply with the current legislation for poultry facilities, despite repairs, in terms of cleanliness, hygiene and bio security. The Council do not disagree, noting that agricultural buildings do have a certain life expectancy. I share this view, and agree that the buildings in their current form are no longer suitable for poultry farming.

10. Still, this would not necessarily prevent modernisation or a different agricultural use in tune with paragraph 28 of the Framework. The appellant suggested that there are very limited options for other rural enterprises on the site, due to the cost of replacement buildings and the physical constraints of the wider site. There is little evidence to support either point, even with Mr Brown's background in agriculture. There is also no reason why, new agricultural buildings would not be granted planning permission. There is also a need to plan for a mix of housing based on the needs of different groups in the community⁴. Condition No 3 does not restrict the occupation of the dwelling solely to Honeywood Farm. Someone unrelated to the site that is mainly employed or last employed in agriculture or forestry locally could occupy the dwelling. The dwelling could also be occupied by a widow or widower of such a person. Hence, I am not persuaded that there is no longer a functional need for the property for agriculture or a rural business at the site.

Marketing

11. A targeted marketing campaign took place among the local farming community within a nine mile radius of the site. Advertisements were also placed in the local and national press and online between September 2015 and February 2016. The appellant has marketed the property for sale with a view to attracting a buyer. They would also re-invest monies from its sale into another property as they are not in a position to rent or lease the property out.
12. Disagreement between the parties lies on whether there is a need to market the site for sale, rent or lease. I have had regard to The Griffins⁵ decision, but MDLDP Policies E4 and H7 do not require the property to be marketed for rent.
13. The parties agree that a discount should be applied to the property's market price to account for the occupancy condition. While they could not agree on a precise figure, I consider a 25% to 30% discount on the market price is fair to account for this. The property was advertised for sale at £318,000, with the appellant said to be willing to consider offers from £300,000 upwards. The property was clearly marketed on the basis of the occupancy condition, while the advertisements show that a separate price could potentially be negotiated for the poultry buildings. Yet it was unclear what that potential price could be. I gather the property's price was settled upon, based on research of property values nearby with a 25% discount applied. Later valuations put the dwelling's value, if placed on the open market, at £470,000 to £485,000 and £450,000. Even accounting for a buoyant property market in the summer of 2016, the appellant's valuations do seem to be at the upper end of the open market.

⁴ Framework, Paragraph 50

⁵ Appeal Decision Ref: APP/X1545/W/16/3148924

14. Even so, the Council's valuation, obtained in June 2017 shows that property values do fluctuate. But, I do not place a strong reliance on this valuation, given that it was generated online and there is no sale history linked to the bungalow. While prospective buyers who viewed the site did not suggest that the price was an obstacle, no offers were received. Even though the price may have been reduced to maximise interest, I attach the appellant's valuations greater weight. Consequently, I consider the sale price was fair, as it accounted for a 25% discount and would not have stopped lower offers if they came forward. I therefore consider the site has been suitably marketed in the local farming community and in the national press.

Need arising from other local agricultural uses or current/ex-workers

15. Evidence points to the grant of a steady number of planning permissions for new agricultural dwellings in the district over eleven years. This is a fair period of time and I heard the specific circumstances of those granted in the last five years⁶. However, new agricultural dwellings do need specific and detailed justification as typically new homes in the countryside would not ordinarily be granted planning permission. These planning permissions show that there is a steady and continuing demand for such accommodation in the district.

Conclusion the main issue

16. Persons viewing the site expressed concern with the condition of the buildings insofar as their needs. But, even with the lack of offers, this does not alter my view that it has not been sufficiently demonstrated that there is no further functional need for the property for agriculture⁷ or a rural business at the site. I conclude that condition No 3 remains to have a useful functional purpose in providing agricultural and rural workers accommodation in the district or for their dependents. Thus, the removal of condition No 3 would be contrary to MDLDP Policy H7, which emphasises the value of the existing stock of restricted dwellings in avoiding the need for further dwellings in the countryside.

Conclusion and Conditions

17. I am dismissing the appeal on the substantive matter relating to the proposed removal of condition No 3 as the evidence suggests that it continues to serve a purpose. But, changes are necessary to the condition so that it reflects current planning legislation and guidance. The effect of this is to allow the appeal.
18. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no evidence before me about the status of the other conditions imposed on the outline planning permission, I shall impose some that I consider to remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
19. For these reasons, I conclude that the appeal should be allowed insofar as it is necessary to retain the disputed condition in the manner set out above. I will grant a new planning permission with this condition, and retain a non-disputed condition from the outline permission that appears still to be relevant.

Andrew McGlone

INSPECTOR

⁶ Council Application Refs: FUL/MAL/14/01008 and OUT/MAL/13/00476

⁷ The Town and Country Planning Act 1990 (as amended), Section 336

