



Appeal Decision

Site visit made on 8 July 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/Y3940/W/19/3224531

Inlands Farm, Sunnyhill Lane Oare East to Sunnyhill Farm, Sunnyhill SN9 5LA

- 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 Haskell-Thomas against the decision of Wiltshire Council.
 - The application Ref 18/10208/VAR, dated 26 October 2018, was refused by notice dated 5 March 2019.
 - The application sought planning permission for the erection of a 3-bedroom bungalow without complying with a condition attached to planning permission Ref K/039132, dated 5 April 2000.
 - The condition in dispute is No. 4 which states that: The occupation of the dwelling hereby approved 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 of such a person, and to any resident dependants.
 - The reason given for the condition is: The site lies within a rural area where new residential development, other than that required in the interests of agriculture or forestry would be contrary to the policies contained in the approved North East Wiltshire Structure Plan.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3-bedroom bungalow at Inlands Farm, Sunnyhill Lane Oare East to Sunnyhill Farm, Sunnyhill SN9 5LA in accordance with the application ref 18/10208/VAR dated 26 October 2018, without compliance with the conditions previously imposed on the planning permission Ref K/039132 dated 5 April 2000.

Application for costs

2. An application for costs was made by Mr & Mrs Haskell-Thomas against Wiltshire Council. This application is the subject of a separate Decision.

Background and procedural matter

3. Planning permission was granted in 2000 for the erection of a three-bedroomed bungalow in connection with agricultural activities being carried out at Inlands Farm. This was subject to a number of conditions, including that now in dispute, which limited occupation of the dwelling to a person solely or mainly

working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

4. The appeal property was allowed on the basis of there having been a demonstrable need for a dwelling in the countryside, in order to support a rural, agricultural enterprise at Inlands Farm. The disputed condition was imposed owing to the site's location in a rural area where residential development, other than that required in the interests of agriculture or forestry would be contrary to development plan policies in place at the time. Notwithstanding subsequent changes to national and local planning policy, the site remains outside any recognised settlement boundary, in the open countryside, which is also part of the North Wessex Downs Area of Outstanding Natural Beauty (AONB).
5. A Section 106 Agreement, made 10 October 2000 and associated with the original permission, ties the farmhouse to the other permanent buildings on the land specified (third schedule). As a consequence of allowing the appeal, the existing s106 Agreement would no longer apply and the new permission could therefore be exercised without complying with the agreement. This is not a matter in dispute.

Main Issue

6. The main issue is whether the disputed condition is reasonable and necessary having regard to national and development plan policy.

Reasons

7. The appellants have lived at Inlands Farm since 2006, wherein they continue to reside. The arable land at Inlands Farm has been farmed under contract, while the remainder is used for the appellants' private equestrian use and growing hay. Statutory Declarations and supporting evidence would indicate that neither of the appellants have worked, either solely or mainly, in the locality in agriculture or forestry. Having been breached for in excess of 13 years, the Council accept that the disputed condition has become unenforceable.
8. Since the time of the dwelling's construction, the Council has subsequently approved two planning applications for its extension, so that today it is a two-storey, four-bedroomed dwelling. The single open-market valuation of Inlands Farm provided estimates its current worth as in the region of £1.4 million. The Council has offered no contrary evidence in terms of valuation; rather, it is generally accepted that through the increase in size of accommodation and overall value, Inlands Farm would not be affordable for a rural worker, even if it was being marketed for such occupation.
9. The National Planning Policy Framework, revised February 2019 (the Framework) advises that planning conditions should only be imposed where they are, amongst other things, necessary, enforceable, precise and reasonable in all other respects. The disputed condition was intended to help maintain a supply of rural workers' dwellings in the area and based on the evidence before me, I consider its effectiveness in doing so is significantly limited. Moreover, I have not been provided with any robust evidence to indicate that there is any unmet need for a dwelling of this size and type in the locality. Furthermore, the effect on the open AONB countryside is already present and will remain so, irrespective of whether the disputed condition is removed.

10. All things considered, I am satisfied that the disputed condition is no longer reasonable or necessary. Its removal would therefore not be in conflict with the landscape character protection and high quality design aims of Wiltshire Core Strategy Core Polies 51, 52 and 57, and the advice of the National Planning Policy Framework.
11. I have noted the Council's concerns regarding the potential for other buildings on the wider landholding to be used for agricultural purposes, and that the unencumbered dwelling could be sold separately from the wider landholding and other buildings. However, the Council's concerns are predicated on potential future scenarios, which are not being proposed and not for me to consider. Indeed, if any such hypothetical situation came about and led to an application for another rural workers' dwelling in the AONB countryside, any resultant application would have to be judged on the circumstances at the time. A varied planning obligation would not, in my judgement, be necessary to make the development acceptable in planning terms, or fairly and reasonably related in kind to it. If an obligation were sought in order to continue to tie the ancillary outbuildings on the land to the main dwellinghouse, it would thereby run contrary to the statutory tests.
12. In addition to the disputed condition, a number of other planning conditions were imposed on the original permission. In view of their nature and the lapse of time since they were imposed, I agree with the Council that it is not necessary to re-impose any other planning conditions.

Conclusion

13. For the reasons given above and having considered all other matters raised, including the comments from the Parish Council in relation to the agricultural contract, I conclude that the appeal should be allowed.

H Porter

INSPECTOR