



Appeal Decision

Hearing Held on 14 January 2020

Site visit made on 14 January 2020

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 10 February 2020

Appeal Ref: APP/W1525/W/19/3236204

Willowbank, Dowsett Lane, Ramsden Heath, Billericay CM11 1JL

- 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 Mrs June Smith against the decision of Chelmsford City Council.
 - The application Ref 19/01095/S73, dated 17 June 2019, was refused by notice dated 13 August 2019.
 - The application sought planning permission for a bungalow for the proprietor of a nursery without complying with a condition attached to planning permission Ref CHL/386/77, dated 21 February 1978.
 - The condition in dispute is No 6 which was itself varied by the Council under Ref 02/01919/FUL dated 8 November 2002. The revised condition states that: *"The occupancy of the dwelling, permitted by application reference CHL/386/77 on 21 February 1978, 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 person and to any resident dependants"*.
 - The reason given for the condition is: *"The Local Planning Authority would not be prepared to permit the erection of a dwelling on this site unconnected with agriculture or forestry"*.
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Decision

1. The Appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are;
 - Whether or not there is evidence of a demand for homes for rural workers locally
 - Whether or not there is evidence for a lack of availability of suitable homes for rural workers locally
 - Would an identified 3rd party comply with the condition and what effect does his possession of an existing home have on the appeal.

Reasons

Evidence of Demand

4. The appeal relates to this detached bungalow which is located in the Green Belt, outside any defined settlement boundary. The bungalow was constructed following planning permission being granted, subject to a restrictive condition limiting its occupation, as set out in the heading.
5. Policy DC33 of the adopted Core Strategy relates to agricultural/rural workers' dwellings. Part B of the policy relates to the removal of such conditions. It indicates that permission will be given to remove such conditions only where 2 criteria are met; i) where it can be evidenced that there is no long-term need for an agricultural/rural workers dwelling in the locality, and ii) comprehensive evidence is submitted to demonstrate that the property has been publicised for sale and let to other relevant interests in the locality at a price to reflect the occupancy condition and confirmation of a lack of interest.
6. It is agreed that, due to the advanced stage towards adoption Policy CO8 of the emerging Local Plan can be afforded a significant degree of weight in this appeal. Similar criteria are set out and it is stated that a 12 months period of marketing is required. The Council agrees that the asking price of £500,000 reflects a suitable mark-down due to the restrictive condition and agree that the market value would otherwise be around £750,000. They also agree that the nature and extent of the marketing exercise was acceptable.
7. The bungalow is currently occupied by the retired worker/owner of the horticultural nursery. The nursery ceased trading a number of years ago and it is agreed that the appellant occupies the dwelling in compliance with the condition in question, as a retired rural worker. In these circumstances, the Council has also agreed that there is no functional need arising from the nursery which would require a resident worker.
8. The Council pointed out that the requirements of the policies which relate to the construction of new homes in rural locations are rightly stringent. These impose the requirement to demonstrate an overriding need for such a dwelling which would show that an on-site presence was required by the rural enterprise. This is so that there is not a proliferation of dwellings in the countryside and those that are allowed are justified by such a need. The policy criteria for the consideration of the removal of such a condition are related but different. These accept that a retired rural worker, a widow/widower or dependants could legitimately occupy such a dwelling and also accepts that rural workers from other enterprises could occupy such a dwelling. In this context, there would be no need to demonstrate an on-site need to retain such a condition and once built, such dwellings form a 'pool' of homes which are suitable for rural workers or those others specified by the condition.
9. The marketing of the property gave rise to 2 offers. One was considerably lower than the asking price and was legitimately rejected in my view. The other was of the asking price. This was made by the occupier of a nearby farm, Mr and Mrs Morter. The appellant indicates that this was rejected because they believed that the offer was made by persons who were unable to meet the requirements of the condition. There was some discussion at the Hearing in relation to the submission of information by Mr and Mrs Morter. I agree with comments made in relation to this matter that it is not for the

appellants to police the compliance of others with such a condition but I can understand that they would want to be satisfied that an offer was being made in a bona fide manner. What is relevant and highly pertinent in my view is that the Council confirmed that Mr and Mrs Morter comply with such a condition due to their involvement with a nearby farm. It was added that they wish to retire and pass the farm and its existing dwelling to family members but wish to maintain close links and contact with the farm.

10. The Council submitted a list of planning applications made over the last 10 years. Whilst not all were approved, I can see that a number were. This indicates to me that there is a level of demand and need for new dwellings for rural workers in the area. In relation to the appeal property, whilst I accept that only one suitable offer was made this indicates some need for properties of this type. Whilst this may indicate a limited need, it cannot be said that there is no need and cannot be said that there is no interest.

The availability of other suitable properties

11. The Council again referred to the fact that a number of applications and approvals have been made to them and this must reflect that it was considered at the time of those approvals that there were no suitable alternative properties in those individual cases. The appellant submitted details of a number of properties advertised on the open market which were for sale with an asking price of or lower than that of the appeal property. The Council were critical of the inclusion of a number of these due to their size and location. It was also stated that it is often difficult for rural workers to compete for properties on the open market, not just because of the price, but also because of their inability to compete within a bidding process, due to restricted means.
12. Whilst I am aware that this appeal is not strictly concerning itself with the consideration of whether other properties would be suitable for the persons making the offer on Willowbank, it was stated that Willowbank would be suitable due to its size, configuration over one floor only, and its location.

The 3rd party

13. From the evidence now made available to the appeal and with the confirmation from the Council, I see no reason to doubt that Mr and Mrs Morter would comply with the condition in question. As stated above, they occupy a neighbouring farm with a dwelling. However, it was stated that they wish to pass the farm onto family members, along with the dwelling. I acknowledge that succession planning is an important consideration for rural enterprises such as this. In this context, I would not find that Mr and Mrs Morter's ownership of an existing farm and its dwelling to be fatal to the Council's case or to any expression of interest in the appeal property.

Conclusions

14. For such a condition to be removed, the Council's policies require that evidence should be produced to demonstrate no long-term need *and* that a marketing exercise confirms a lack of interest. I consider that it has not been demonstrated that there is no long-term need, for the reasons set out above. Whilst the marketing of the property has only generated one realistic offer, it cannot be said that it has been confirmed that there is a lack of interest.

Therefore, I conclude that the proposal would be contrary to Policies DC33 and CO8.

15. I have taken account of the other appeal decisions referred to by the Council and by the appellant. On the face of it, some of these would appear to lead one in different directions (and reflect the respective cases of the Council and appellant). To me they demonstrate that each case involves a set of unique circumstances and the weight attributed to evidence will differ depending on the nature of each case and its evidence. I find nothing in these other appeals that leads me to a different conclusion to the one set out.
16. As a result of these matters, I find that the condition in dispute continues to serve a useful purpose in planning. Consequently, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

C Marsh
J Smith
L Robinson

FOR THE LOCAL PLANNING AUTHORITY:

K Mathieson
S Rogers

INTERESTED PERSONS:

Mr and Mrs Morter