
Appeal Decision

Site visit made on 10 March 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Appeal Ref: APP/J3720/Q/19/3241883

18 Jubilee Fields, Stockton, Southam CV47 8PF

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Alexander Hogg and Rebecca Hogg against the decision of Stratford on Avon District Council.
 - The development to which the planning obligation relates is the construction of 12 affordable and 5 local market housing units (17 in total) and associated works.
 - The planning obligation, dated 28 August 2013, was made between Noralle Traditional Country Homes Limited and Stratford on Avon District Council.
 - The application Ref: 18/03006/S106A, dated 8 October 2018, was refused by notice dated 16 July 2019.
 - The application sought to have the planning obligation discharged.
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Decision

1. The appeal is allowed. The planning obligation, dated 28 August 2013, made between Noralle Traditional Country Homes Limited and Stratford on Avon District Council which concerns local market housing in relation to 18 Jubilee Fields, Stockton, Southam CV47 8PF, no longer serves a useful purpose and is discharged.

Procedural Matter

2. The appeal submissions of the main parties have made various references to whether the relevant planning obligation is to be discharged or modified. The proposal seeks to remove the local market housing occupancy restriction and not replace it with an alternative mechanism. Hence, I consider that the proposal is to have the relevant planning obligation discharged and this is reflected in the banner heading above and in my decision paragraph. My decision only relates to the planning obligation that concerns local market housing and not to the other obligations contained in the same legal agreement.

Main Issue

3. The main issue is whether the existing planning obligation should continue to have effect without modification, or whether the obligation no longer serves a useful purpose and so should be discharged, with particular regard to the need for local market housing.

Reasons

Background

4. The appeal site forms part of a larger housing development of 17 dwellings, known as Jubilee Fields, that includes 5 local market and 12 affordable housing units. The appeal property is one of the local market units. The planning permission¹ that was granted for the development was the subject of a Deed of Agreement under Section 106 of the Town and Country Planning Act 1990. This consisted of a number of planning obligations, including local market housing which is the subject of this appeal (the planning obligation).
5. Schedule 2 sets out matters concerning the disposal and occupancy of the local market units, as well as the associated procedures. In the first instance, the occupancy is restricted to a Qualifying Household and which must include one member with a Local Connection. The meaning of Local Connection is set out in the Definitions section and depends on one or more criteria being met which relate to specified connections to the parish of Stockton. The meaning of a Qualifying Householder is also linked to a Local Connection. At least one member of the household has to benefit from a Local Connection in order to occupy a local market unit.
6. The procedures for disposals include a 12 week period of continuous marketing to Qualifying Households in accordance with an ascribed valuation process. If that has not been successful, then the local market unit can be offered without the Qualifying Household restriction.
7. In removing this obligation, the appellants contend that the occupancy restriction no longer reflects the local housing need. On the other hand, the Council consider there is still such a need and also point to that the Jubilee Fields development was allowed as an 'exception' due to the need for local market and affordable housing. Matters relating to the difficulties or otherwise of re-mortgaging and re-selling, and views on whether the restrictions are fair, are not for my consideration.

Local Housing Need

8. At the time the planning permission was granted, the Stratford-on-Avon Local Plan Review was in force. Under Policy STR.1, a settlement hierarchy approach formed the basis of controlling and regulating development. Stockton was defined as a Local Centre Village. Policy COM.1 made provision for such communities to identify housing needs which they would wish to have satisfied at the local level. Policy CTY.5 provided for affordable housing rural exception sites.
9. The related planning application submission was supported by a Housing Needs Survey (2013) (HNS). This showed a demonstrable need for 25 local market dwellings, along with 12 affordable homes. Having regard to the need identified in the HNS, the Council granted permission subject to the provisions of the associated legal agreement, including the planning obligation.
10. Whether or not the planning obligation would still serve a useful purpose depends on the balance of the evidence that has been brought to my attention as part of the appeal submissions. Whilst I acknowledge that there is not a

¹ Council ref: 13/00870/FUL

more recent housing need survey, the 2013 version is now of some age and this tempers the weight which can be attributed to it in my decision as regards whether it still provides an up to date assessment of need.

11. I have also been made aware of what are not unsubstantial housing sites that have been more recently developed in the village without a local market housing occupancy restriction. These seem far removed from a local needs based small scale development approach that was in place when the planning permission was granted for the Jubilee Fields development. Whilst I understand they were granted due to housing land supply considerations, this does not change that they have significantly added to the housing stock in the village and that they are available for all prospective buyers, including local people who wish to stay in their local area, based on the evidence before me. This lessens the benefit of maintaining local market housing occupancy controls, in my opinion.
12. Whether or not the planning obligation would still serve a useful purpose is also dependant on the current development plan policies, rather than those that were in place at the time of the planning permission.
13. Policy CS.15 of the Council's Core Strategy 2011 to 2031 (2016) now sets out how development is to be distributed around the Council area. Stockton is classified as a Category 2 Local Service Village (LSV). Unlike its predecessor, this policy treats local needs schemes separately to development in LSVs. Criterion D. permits development in LSVs on sites identified in a Neighbourhood Development Plan (NDP) and small-scale schemes on unidentified but suitable sites within their Built-Up Area Boundaries (where defined) or otherwise within their physical confines. Criterion G concerns local needs schemes, distinct from Criterion D. As a consequence, the effect of the policy has been to broaden the scope of housing development that may now be permitted in Stockton, compared to the Local Plan Review.
14. There is not an adopted NDP for Stockton. That the Jubilee Fields development is small scale is not a matter of dispute and whether or not a site is deemed suitable would, in this instance, depend on how it fares in relation to the remainder of this part of the policy. Notwithstanding there are draft proposals for a Built-Up Area Boundary around the village, the physical confines of the site is the relevant consideration under Criterion D.
15. Jubilee Fields abuts housing and what appears to be a community hall or similar, which is also located close to the appeal property itself. There are also fields and open areas adjacent to the site, but it is also located close to other built up areas of the village. It would seem to me that it would reasonably fall within the physical confines. Accordingly, it does not now need to rely on a local needs schemes justification, with regard to Criterion G.
16. The Council considers there is a distinction between the appeal site and other sites² in Stockton where it has discharged such a planning obligation because they are more central in the village. Stockton is, however, fairly compact in its form and the site itself lies within a short distance of the centre of the village, if this is taken to mean where the village services are located. I am not persuaded this would justify not discharging the obligation.

² Council refs: 16/03065/S106A, 16/00383/S106A

17. Criterion D also states that the scale of housing development that is appropriate in each village is specified in Policy CS.16 Housing Development. I see no reason why this would be compromised by discharging the obligation.
18. The Council has also pointed out that the appellants fulfilled the terms of the planning obligation, as a non-qualifying household, when they purchased the property. I also do not doubt that at the time of the grant of the planning permission, it was laudable to ensure that the units in question were made available to people who could demonstrate a local connection first. However, with the dated nature of the HNS, the subsequent development that has taken place in the village and the altered development plan approach, the circumstances have changed sufficiently in order to justify discharging the obligation. Nor would this alter the broader affordable housing provision on the Jubilee Fields development.
19. As such, I conclude that the obligation no longer serves a useful purpose and so should be discharged, with particular regard to the need for local market housing. The discharge would comply with Policy CS.15 in relation to how it distributes development, including in LSVs, as well as with Policy CS.16.
20. A planning obligation has to meet all of the tests that are set out in paragraph 56 of the National Planning Policy Framework. The local market housing occupancy restriction is, therefore, not necessary to make the development acceptable in planning terms and nor is it fairly and reasonably related in scale and kind to the development. Hence, there is no justification for the existing obligation regarding local market housing to continue. The discharged obligation would be necessary to make the development acceptable in planning terms, and would be fairly and reasonably related in scale and kind to the development.

Conclusion

21. The obligation no longer serves a useful purpose and so should be discharged. For the reasons given above and having regard to all matters raised, the appeal should be allowed.

Darren Hendley

INSPECTOR