



Appeal Decision

Hearing Held on 25 February 2020

Site visit made on 25 February 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal Ref: APP/P2935/W/19/3229827

Smalesworth Farm, Falstone, Hexham NE48 1DE

- 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 and Mrs S & K Hodgson against the decision of Northumberland County Council.
 - The application Ref 19/00033/VARYCO, dated 7 January 2019, was refused by notice dated 5 March 2019.
 - The application sought planning permission for the construction of one dwelling without complying with a condition attached to planning permission Ref T/20030773, dated 22 April 2004 and to discharge the S106 Legal Agreement associated with planning permission T/20040574.
 - The condition in dispute is No 4 which states that: "The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture as defined by Section 366(1) of the Town and Country Planning Act, or a widow or widower of such a person, and to any resident dependants".
 - The reason given for the condition is: "The site lies in the open countryside where there is a strong presumption against new housing in normal circumstances".
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Decision

1. The appeal is dismissed.

Procedural matters

2. A Market Valuation Report¹ was submitted by the Council a few days before the start of the Hearing. This evidence has been provided late in the appeal process and beyond the timeframes of the Procedural Guide². However, in discussion with the main parties I found that it added useful further information, it did not repeat existing evidence and raised important expert opinion. I therefore accepted the document by exception. Although considering the timing to be unfair and unhelpful, the appellants confirmed that they were satisfied that they had been given adequate opportunity to consider and make comments on this evidence at the event. As such, I am satisfied that no party has been prejudiced by my consideration of this document as part of the appeal documentation.

¹ Market Valuation Report, Adobe Chartered Surveyors 18 February 2020

² Planning Inspectorate, Planning appeals: procedural guide 2015

3. The Northumberland Local plan – Publication Draft Plan (Regulation 19) (2019) (DLP) and proposed minor modifications is currently undergoing examination. Policies HOU8 and STP1 of the DLP are subject to modification and ongoing discussion. As such, due to the status of these policies I have attributed limited weight to them.

Application for costs

4. An application for costs was made by Mr and Mrs S & K Hodgson against Northumberland County Council. This application is the subject of a separate Decision.

Background and Main Issue

5. The dwelling the subject of this appeal is in an isolated location. The nearest village of Bellingham is some distance to the east. The dwelling is occupied but requires minor structural work and cosmetic work to complete all internal walls and finishes. The building sits within a relatively small parcel. It is accessed by an unmetalled track that opens onto an area of hardstanding shared with an adjacent workshop. The appellants explained at the Hearing that the main agricultural activity of the farm was historically sheep and cattle grazing, but the stock has now been given up. Consequently, the appellants assert that the farm is no longer viable following the re-designation of a large proportion of the holding by the rural payments agency from agricultural land to moorland. This has had a significant effect on the farm's access to Government grants.
6. The appellants have stated that a significant proportion of the property's income now derives from the commercial car repair and MOT business that Mr Hodgson operates from his converted barn. This commercial use gained planning permission³ in 2012. The approval included a condition that the use can only be carried out by the occupiers of Smalesworth Farm, due to the proximity of the adjacent dwelling.
7. The appellants seek the removal of the disputed condition which restricts the occupation of the dwelling to a person working in agriculture, to enable it to be occupied as an open market dwelling. However, the Council consider that the appellants had failed to adequately market the dwelling and therefore failed to satisfy policy H19 of the Tynedale District Local Plan (2000, saved 2007)(LP). The Council also consider that allowing a dwelling without such a condition in the open countryside would be in contradiction of the Council's spatial housing policies.
8. Consequently, the main issue is whether it is reasonable and necessary for the dwelling to continue to be subject to condition 4, requiring it to be occupied by a person solely or mainly working in agriculture or a widower or their dependants, having regard to local and national policies.

Reasons

9. The development plan for the district includes the Tynedale Core Strategy (2007) (CS) and the LP. Policies H1, H3 and GD1 of the CS, establish the Council's approach to its strategic housing policy. These seek to direct new housing towards main towns, local centres and in smaller villages with adequate services. Saved policy H18 of the LP seeks to support housing in the

³ Planning Application Reference: 12/01529/COU

open countryside, in limited circumstances. This includes where such housing is essential for people engaged in a viable agricultural business. Furthermore, saved policy H19 relates to the retention of a rural worker occupancy restriction. This also explains that such a restriction could only be removed where it can be convincingly demonstrated that the needs in the locality no longer warrants reserving it for that purpose.

10. The purpose of policy H19 is to guard against the release of an agricultural worker's dwelling where a need still exists. In such circumstances the removal of such a condition would result in further demand for housing in the open countryside. Such development would be unsupported by the Council's strategic housing policy, apart from the exclusions of saved policy H18. Companion text to policy H19 at 6.6.13 explains that to make an assessment of local need an applicant would need to meet listed requirements. These include for the property to be widely advertised for a minimum of one year; that the value reflects the occupancy condition; and that no reasonable offer has been refused. The text is not explicit in whether the dwelling and farm holding must be marketed as one land holding. Consequently, it would be unnecessary for the farm-holding to be included in the offer as the dwelling could appeal to existing local agricultural workers.
11. In terms of valuation of the property, there were significant differences between the parties. Following an assessment of local comparable house prices, the appellants consider that the unencumbered open market value (OMV) of the property would be £640,000. This value is based on the property having six bedrooms, being relatively substantial and containing three floors.
12. The appellants then discounted this by £15,000 to reflect the work required to complete the interior and provide access to the second floor. The appellants identified that the effect of an Agricultural Occupancy Condition (AOC) could reduce the value of a property by between 15-30%. A discount of 20% was subsequently also applied which reduced the value to £500,000. At the Hearing the appellants explained that this level of discount seemed appropriate given the character of the area. However, a 30% discount seems to me to be more appropriate and would have brought the valuation closer to the Council's valuation of £430,000.
13. The workshop was excluded from the area subject to marketing. It seems that the workshop could be severed from the dwelling in the future creating two separate planning units. As such, the workshop could cause substantial noise disturbance to the occupiers of the dwelling, especially as its hours of use are not restricted. Furthermore, its scale and proximity would be likely to have a significant bearing on the value of the dwelling. Therefore, the reduction on OMV does not appear to pay sufficient regard to the negative effects of the workshop.
14. Furthermore, the largest four-bed property 'Mill Cottage' sold for a substantially lower sum than the appellants' calculated OMV and this property was not subject to a restrictive occupancy condition. The Council's Market Valuation Report illustrates that average house prices have only enjoyed marginal growth over recent years. As such, I find the OMV relied on by the appellants to be unduly optimistic. Accordingly, I find the discounted value does not adequately discount the price to reflect the combined effect of the incomplete work, the AOC and the workshop and is therefore unduly high.

15. Turning to the marketing, the appellants' Marketing Statement⁴ explained that the property was advertised on two websites for an 8-month period between September 2017 and May 2018. Despite receiving a substantial number of 'hits' no expressions of interest were received. However, despite the high level of interest it is clear to me that other factors had dissuaded deeper interest. The appellants explained at the Hearing that interior photographs are not always made available for a variety of commercial reasons. However, I did not hear a compelling reason why they had not been included. Furthermore, during my inspection of the dwelling I considered that several of the larger rooms would have made a positive contribution to the marketing details.
16. Furthermore, there is no evidence that the property was advertised in local agricultural journals, local letter drops or by a display board. Moreover, the marketing period took place over the winter months. These factors may have further reduced the response rate. Although, the Council accepted that a marketing period of 8 months was reasonable, this falls short of the 12 months minimum period specified in Policy H19. In addition, the marketing appeared to me to not show the property in its best light with an unrealistic price. As such, I have found that the marketing was not sufficiently robust.
17. Accordingly, the proposal would not satisfy saved policy H19 of the LP and it has not been convincingly demonstrated that the needs in the locality no longer warrants reserving the appeal property for that purpose. To remove the condition would result in the creation of a dwelling on the open market in an isolated location, within the open countryside. Such development would be contrary to policies H1, H3 and GD1 of the CS. These policies seek to located residential development towards main towns, local centres and in smaller villages with adequate services. Residential development in the open countryside, in an isolated location such as this would also be contrary to paragraph 79 of the Framework. Although having applied only limited weight to them, an open market dwelling would also be contrary to policies HOU8 and STP1 of the DLP. These policies also seek to direct new development to within the built-up form or immediately adjacent to Main Towns, Service Centres and Service Villages.
18. Therefore, the subject condition still serves a useful purpose and it is consequently necessary and reasonable in consideration of the tests established by paragraph 55 of the Framework having regard to local and national policies.

Conclusion

19. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

⁴ Marketing Statement, George F White- May 2018

APPEARANCES

FOR THE APPELLANT:

Mr Craig Ross, MRTPI

Planning Consultant, George F. White

Mr James Carruthers

George F. White

Ms H Waler

Graduate Planner, George F. White

Mr S Hodgson

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms M Francis

Senior Planning Officer,
Northumberland County Council

Mr C Harvey

Planning Officer, Northumberland
County Council