



Appeal Decision

Hearing Held on 20 October 2020

Site visit made on 20 October 2020

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2020

Appeal Ref: APP/Q3305/W/20/3249534

Meadow Farm, Chessell Lane, North Wootton, Shepton Mallet BA4 4HJ

- 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 Stephen Watts against the decision of Mendip District Council.
 - The application Ref 2019/2405/VRC, dated 27 September 2019, was refused by notice dated 29 January 2020.
 - The application sought planning permission for the erection of an agricultural worker's bungalow on land adjoining Wood Lane, North Wootton without complying with a condition attached to planning permission Ref 59733/A, dated 10 January 1974.
 - The condition in dispute is No 3 which states that: *The occupation of the dwelling shall be limited to persons employed or last employed full-time locally in agriculture as defined in section 200 of the Town and Country Planning Act 1971, or in forestry and the dependents of such persons.*
 - The reason given for the condition is: *Housing development in the locality should be restricted in the interests of rural amenity to the needs of agriculture or forestry.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the condition is necessary and reasonable having regard to local policy concerning dwellings in the countryside.

Reasons

3. The appeal relates to a detached bungalow, Meadow Farm, located adjacent to a small cluster of farm buildings, a short distance outside the village of North Wootton. It was granted planning permission in 1974. The bungalow was built by the appellant's grandfather whose family owned a farm holding of approximately 97 hectares (240 acres), of which around 16 hectares (40 acres) was attached to the new bungalow. When planning permission was granted it was subject to an occupancy restriction limiting occupancy to that of agricultural and forestry workers, along with any dependents. This was because the development was in the countryside and in a location which was not suitable for new housing.

4. In the intervening period, the farm has been sold off and the land divided up. Meadow Farm was left with approximately 1.6 hectares (4 acres) of land. It was sold with this land in 2018 to the appellant who, at the time, believed he met the occupancy restriction having retired from working full time in agriculture. However, the Council determined that since the majority of his income is from non-agricultural employment he does not meet the requirements of this condition. The appellant has not disputed this. Consequently, he is seeking the removal of the disputed condition in order that Meadow Farm can be occupied as an unrestricted residential dwelling.
5. Policy DP13 of the Mendip District Local Plan Part 1: Strategy and Policies 2014 (Local Plan) allows for the removal of occupancy conditions on rural worker's dwellings where a) the dwelling is genuinely surplus to the current and foreseeable future agricultural needs of the holding; b) there is no evidence of a continuing need for housing for persons employed or last employed in agriculture in the locality; and c) the dwelling has been widely marketed on terms reflecting its occupancy condition normally for at least 12 months or an appropriate period as agreed with the local planning authority and no interest in occupation has been indicated. The supporting text explains that this is to avoid the creation of isolated new homes in the countryside. It sets out that the removal of conditions will be considered on a case by case basis and will need to be supported by documentary evidence.
6. The Council's position is that the marketing information on which the appellant is seeking to rely upon is out of date and as such fails to demonstrate a lack of need for housing for persons employed or last employed in agriculture or forestry in the locality.
7. At the time Meadow Farm was sold in 2018, it was clearly marketed as a property with an agricultural occupancy condition. It was put on the market on 21 March 2018 and sold just over three months later on 28 June 2018. The thoroughness of this marketing exercise is not in dispute.
8. The appellant has submitted a marketing report which sets out that the 2018 marketing of the property generated a limited number of enquiries. It identifies that of those prospective purchasers showing an interest only a few decided to progress their interest further. The report concludes that this was largely due to the agricultural occupancy condition and the limited size of the holding. Notwithstanding this, the property went on to public auction in June 2018 at which point the appellant, who at the time believed he met the agricultural occupancy condition, purchased the property. In purchasing the property in these circumstances, the appellant demonstrated a demand for housing for persons employed or last employed in agriculture in the locality.
9. Once the property had been purchased, albeit on the incorrect assumption that the appellant met the criteria, the marketing of the property ceased. Had the marketing been carried out for longer, it may have demonstrated that the property was unaffordable to an agricultural worker or that the marketing price was wrong or that there were no purchasers who could meet the occupancy condition. However, none of this was tested as the property was bought. Consequently, I have no conclusive evidence that there is no demand for this tenure of housing or that it is the wrong price as it was purchased by someone who, at the time, considered they met the criteria.

10. The appellant has sought to rely on this marketing exercise to demonstrate that there is no interest in the property with the restrictive occupancy condition. However, as the appellant purchased the property in 2018, the marketing exercise could be viewed as successful in that it demonstrated an interest in the property.
11. In September 2019 when the application was made to remove the restrictive condition no further marketing had been undertaken. The appellant sought to rely on the earlier marketing exercise which I have found does not demonstrate no interest. The appellant has subsequently commenced further marketing of the property and submitted information relating to this at the hearing. However, at the time, this exercise had not concluded and it is inconclusive on this matter.
12. The appellant has referred to a number of approved applications seeking the removal of occupancy conditions where he considers the Council has been inconsistent in its requirements for marketing. Whilst the grant of approval in these cases may demonstrate a lack of demand or a reduced marketing need, I have not been provided with the full details of any marketing exercise nor the specific circumstances of each case. In any event, each case must be determined on its own merits according to its own circumstances.
13. I appreciate that the appellant considers the effectiveness of the policy in seeking to maintain a supply of rural workers dwellings in the area is significantly limited. However, this is the adopted policy and it is not the role of a section 78 appeal to evolve it.
14. In the absence of an up to date marketing exercise, there is inconclusive evidence to demonstrate that the bungalow is no longer necessary to meet a need for accommodation for an agricultural or forestry worker. I therefore conclude that the condition is necessary and reasonable having regard to local policy concerning dwellings in the countryside. Therefore the proposal fails to comply with Policy DP13 of the Local Plan.

Planning Balance

15. The evidence indicates that the Council is unable to demonstrate a five year supply of deliverable housing land. The appellant considers the Local Plan to be out of date for this reason and because it is over five years old. However, paragraph 213 of the National Planning Policy Framework (the Framework) provides that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework and that weight should be given to them according to their degree of consistency with it.
16. I regard Policy DP13 as the most important for determining the application. However, this policy, in dealing with the protection of accommodation for rural workers within the countryside, covers matters outside the Framework. It is therefore neither consistent nor inconsistent with it. On this basis, I do not consider that the policy which is most important for determining this application is out-of-date. I therefore give it full weight. Therefore, the presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework, is not engaged.
17. The absence of harm in terms of accessibility and vehicle movements is a neutral factor in my assessment. The removal of the condition to enable the

property to become an open market dwelling would not increase the overall supply of housing but would make an additional house available to a wider market. I give this benefit very limited weight in the balance.

18. However, the proposal would result in an open market dwelling within the countryside and the loss of a rural workers dwelling where it has not been demonstrated that there is no longer a need for a dwelling of this tenure. These adverse impacts of the scheme would outweigh the limited benefits of the proposal.

Conclusion

19. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Watts	Appellant
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FOR THE COUNCIL:

Simon Trafford	Team Leader
Carlton Langford	Planning Officer

DOCUMENTS

Document 1	Letter and attachment dated 16 October 2020 providing update on new marketing exercise
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