



Appeal Decision

Hearing Held on 23 November 2020

Site visit made on 26 November 2020

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2020

Appeal Ref: APP/D2510/W/20/3246253

Holly Holme, Boston Road, West Keal PE23 4BD

- 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 Roger B & Mr Fraser R Ely against the decision of East Lindsey District Council.
 - The application Ref S/204/01456/19, dated 8 August 2019, was refused by notice dated 8 October 2019.
 - The application sought planning permission for erection of a bungalow and double garage in connection with agriculture without complying with a condition attached to planning permission Ref S204/429/91, dated 16 May 1991.
 - The condition in dispute is No 2 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry or a dependant of such a person residing with him (but including a widow or widower of such a person).
 - The reason given for the condition is: The site is in a rural area where it is the policy of the Local Planning Authority, in the interests of safeguarding the rural character and appearance of the area, not to permit development unless it is required to meet a local agricultural need. Permission has been granted only in the light of local agricultural need.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The dwelling now known as Holly Holme gained planning permission in 1991 subject to a condition restricting its occupancy to someone employed or last employed in agriculture or forestry. From the evidence, the dwelling was occupied in connection with the adjacent farm known as the Hollies. The farming operations at the Hollies ceased in 1999 and the associated farming land has since been sold off. The appellants consider that the occupancy condition no longer serves any useful purpose.
3. Taking this into account and also the original reason for the condition, the main issue in this appeal is whether Condition 2 is necessary and reasonable to ensure the adequate provision of accommodation for agricultural or forestry workers in the area.

Reasons

4. Paragraph 55 of the National Planning Policy Framework (the Framework) sets out that a planning condition must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
5. Although Holly Holme no longer has links with the adjoining agricultural land or buildings, the condition does not limit occupancy of the dwelling to any particular holding or person. The issue before me is whether there is a continuing need for its retention for occupation by agricultural or forestry workers in the area.
6. Policy SP8 of the East Lindsey Local Plan Core Strategy 2018 (CS) requires applications for the removal of an agricultural occupancy condition to clearly demonstrate that the property has been actively marketed for a period of 12 months. No marketing has taken place in this case.
7. At the hearing I was told that the property has not been marketed because the appellants did not wish to sell it and did not wish to appear deceptive. Whilst this intention is laudable, it is not justification to set aside the policy requirement of an adopted local plan. As the Council indicated, the purpose of the required marketing exercise is to test the demand for the property with the occupancy condition, in order to determine what level of interest, if any, there is in such a property. There is no obligation to sell the property and there is no substantive evidence that estate agents have refused to market the property on this basis.
8. It has been suggested that there is less demand for rural worker's dwellings due to changes in farming practices and a decline in the number employed locally and nationally in agriculture; although no specific details have been provided. During the hearing the appellants also raised concerns that the property would not be affordable to agricultural workers and could therefore remain empty for a long time. However, in the absence of a marketing exercise I have no evidence to show that there is no demand for rural worker's dwellings in the area, or that selling or renting the property with the occupancy condition still attached would be problematic. Moreover, the condition allows for the occupier to be mainly or last employed in agriculture or forestry. Therefore, occupation could be by someone with other available income sources, or a retired agricultural or forestry worker.
9. The appellants identified another former agricultural worker's property, which they said had been marketed without generating any interest. However, I was not provided with any details of the case so I am unable to draw any comparisons to the scheme before me. Furthermore, whilst I have noted the Council's approach in decision making on other developments where marketing was not carried out, all of the cases referred to concerned removal of holiday occupancy conditions, so are not directly comparable to the appeal scheme. In any event, as I have done here, each proposal should be assessed on its own merits based on the available evidence.
10. Policy SP4 of the CS is supportive of housing within medium and small villages, such as West Keal, and the parties agree that the dwelling is not in an isolated location in the terms of paragraph 79 of the Framework. In addition, the

dwelling is already in place and the removal of the occupancy condition would not result in any additional visual impacts on the rural character of the area.

11. This notwithstanding, there is no dispute that the dwelling is located outside of the developed footprint of West Keal, as defined in CS Policy SP4. Thus, in the absence of appropriate justification to remove the occupancy condition in this countryside location, the proposal would result in a dwelling at odds with the locational requirements of CS Policy SP4.
12. The removal of the occupancy condition would make the property available to the open market. However, there is no indication that there is a lack of open market housing in the area, or that the Council's housing policies are out of date. In any event, the contribution of a single dwelling would be very limited and there is no evidence that occupation as an open market dwelling would support local services any more than if it were occupied by a rural worker. I have also noted the representations made in support of the proposal and suggestions that the dwelling would meet the specific accommodation needs of the appellants, but I have no further information on this. Accordingly, these are not considerations which would outweigh the loss of a rural worker's dwelling in this case.
13. Therefore, for the reasons given, and in the absence of any cogent evidence to the contrary, I conclude that Condition 2 remains both necessary and reasonable to ensure the adequate provision of accommodation for agricultural or forestry workers in the area. Thus, the proposal fails to comply with CS Policy SP8 in this regard. There would also be conflict with the locational requirements of CS Policy SP4, as stated.

Conclusion

14. For the reasons given above, the appeal should be dismissed.

A Caines

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ricky Newton

Lincs Design Consultancy Ltd

Roger Ely

Fraser Ely

Lesley Ely

FOR THE LOCAL PLANNING AUTHORITY:

Ian Carrington

East Lindsey District Council

Paul Edwards

East Lindsey District Council