



Appeal Decision

Hearing held on 21 January 2021

Site visit made on the same day

by Ian Radcliffe BSc(Hons) DMS MCIEH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2021

Appeal Ref: APP/B3030/W/20/3259416

Girton Farm Bungalow, New Lane, Girton, Newark NG23 7HY

- 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 a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Gadsby against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01120/S73, dated 25 June 2020, was refused by notice dated 19 August 2020.
 - The application sought planning permission to erect poultry sheds and a farmworkers bungalow without complying with a condition attached to planning permission Ref E/12/46, dated August 1963.
 - The condition in dispute is No 3 which states that: the occupation of the proposed bungalow shall be limited to persons employed locally in agriculture as defined in section 221(1) of the Town & Country Planning Act 1962, or in forestry and the dependants of such persons aforesaid.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The only available copy of the original decision notice is limited to the first page and is a poor reproduction. As a result, the reason for the contested condition is not available and the notice is difficult to read with parts of it, such as the date of the permission, particularly difficult to decipher. It was agreed though at the hearing that the detail gleaned from the notice by an Inspector in relation to a previous appeal¹ regarding the same condition was accurate. As a result, I have used this information to complete the banner header above which informs the basis upon which the appeal has been dealt with.

Main Issue

3. The main issue in this appeal is whether condition 3 is reasonable and necessary in order to provide housing for a rural worker.

Reasons

4. The appeal dwelling is a bungalow which is set within grounds of approximately 0.7 ha following the selling off of the former poultry buildings and associated land. It was clarified at the hearing that the bungalow is a 2 bedroom dwelling rather than a 3-4 bed bungalow as described in the previous appeal decision.

¹ Appeal Ref: APP/B3030/W/17/3174449

Policy

5. The bungalow is located within the open countryside where Policy DM8 of the Newark and Sherwood Allocations and Development Management Development Plan Document strictly controls new development. One such exception is for dwellings for agricultural workers. Where such dwellings already exist occupancy restrictions will only be removed where it can be demonstrated that they no longer serve a useful purpose. Paragraph 7.45 of the justified reasoning for this policy explains that this includes the provision of housing for other rural workers. The paragraph explains that when an application to remove such a condition is made, to fully explore whether a rural worker housing need exists, marketing evidence should be provided demonstrating that the dwelling has been marketed at an appropriate price for a period appropriate to market conditions at the time.
6. Notwithstanding that the bungalow is no longer associated with an agricultural business, until such time as the marketing evidence demonstrates that there is no demand for the bungalow as an agricultural worker's dwelling, the condition is therefore reasonable and necessary.

Marketing period

7. The bungalow has been on the market since 2013. In February 2018 an application to remove the occupancy condition was dismissed at the appeal referred to in paragraph 2 above. This was because the Inspector found that the asking price, which had risen since the house was first put on the market to £290,000, was significantly higher than it should have been given the occupancy condition. A further application to remove the condition was refused by the Council in April 2020 because the dwelling had only been marketed at the upper end of the appropriate discounted valuation range (£200,000 - £210,000) and had only been on the market for 7 months. In the Council's view this meant that the potential market had not been fully tested.
8. It is common ground between the parties that as of August 2020 the property has been marketed continuously at an appropriate price to a sufficiently wide audience for a period of 12 months. This marketing included advertisements on the Zoopla and Acorus websites together with a number of adverts in the Newark Advertiser, Farmers Weekly and the Farmers Guardian. Since then evidence was presented to the hearing that the property has continued to be advertised on the websites mentioned with two adverts also placed in the Farmers Weekly.
9. The view of the appellant though is that continuous marketing started a few months earlier. In May 2019 the bungalow was placed at an appropriate price in an unsuccessful auction that occurred the following month. At the hearing a letter was presented from the auctioneers stating that the property remained on their website until the middle of August. The appellant states that during the intervening period this resulted in viewings and interest. However, as no further auction was in the offing, and in the absence of corroboration from the auctioneer, I am not persuaded that this amounted to ongoing marketing which would push the start of continuous marketing back to May 2019.
10. I therefore find that the property has been continuously marketed as of the date of this hearing in January 2021 for a period of nearly 17 months. During this period the marketing generated interest from 12 parties and one viewing. One offer was made for £205,000 which was declined before it was discovered that this offer was not from a credible potential purchaser.

Effect of the pandemic on market conditions and the appropriateness of the marketing period

11. The position of the Council based upon advice from its independent agricultural consultant is that normally a continuous marketing period of at least 12 months would be sufficient to demonstrate whether there is a need for the occupancy of the property to be restricted to an agricultural worker.
12. However, since March last year the COVID-19 pandemic has had a considerable impact on society and the economy. The first national lockdown closed estate agents and prevented physical in person viewings for a period of almost two months between late March and mid-May. In the subsequent national lockdowns in November and the lockdown that began in January 2021, estate agents have remained open and in person viewings have been able to take place. However, it is reasonable to expect that the strong government messaging during these periods that people must stay at home will have had a dampening effect on interest and viewings.
13. In light of the pandemic, the advice of the Council's independent advisor is that the period of continuous marketing should be revised to a minimum of 24 months.
14. Online property viewings significantly increased during the first lockdown and the residential sales market as a whole has rebounded significantly since spring last year. However, the impact that the pandemic has had on the niche market of agricultural workers dwellings is more difficult to assess. A slight increase in interest occurred in the property in spring 2020 but this did not transfer into a significant number of in person viewings of the property and since then has petered out. Although agricultural production has continued unabated, in some areas, such as the sale and movement of livestock, there is evidence that activity has reduced. Economic uncertainty in a particular sector can have the effect of depressing related house sales.
15. For this reason, and given the restrictions in place and desire by many not to unnecessarily expose themselves to the risk of infection, I therefore find that in order to properly test the market the months during which a national lockdown has applied should be discounted from the period of marketing. In my judgement, December 2020 should also be included as it was sandwiched between two periods of national lockdown and COVID-19 cases were rising rapidly during this month. On that basis, to the end of January 2021, nearly 12 months marketing uninhibited by the pandemic has occurred out of the 17 months since September 2019. This is below the minimum that the Council normally seeks. In my judgement, a few more months of marketing in 2021 is needed outside of lockdown conditions before it is reasonable to conclude the market has been properly tested.

Price appropriateness and whether a reduction in the guide price should occur

16. The valuation of the property by the appellant's estate agents in August 2019 gave a guide price of £200,000 to £210,000. This is consistent with the view of the Inspector in the previous appeal decision and the property has been advertised with a guide price of £210,000. I agree that for the first 12 months of marketing that the bungalow has been marketed at an appropriate price.
17. In light though of the significant number of clicks to view the property online translating into very few expressions of interest the market is indicating that there is little interest for the bungalow at the advertised price. In order to

properly test the market, the guide price should therefore be reduced to the bottom of the guide price range, if not slightly below it.

18. Taking all these matters into account, I therefore conclude that the property has not been marketed at an appropriate price for a period appropriate to market conditions to demonstrate that there is not a need for an agricultural dwelling of this type in the area.

Conclusion

19. For the reasons given above, I therefore conclude that it has not been demonstrated that condition 3, which has the effect of securing the bungalow as housing for a rural worker, is unreasonable and unnecessary. The appeal should therefore be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

A. W. Atkinson
MRICS FAAV

Acorus Rural Property Services

FOR THE LOCAL PLANNING AUTHORITY:

H. Whitfield
BSc(Hons) MSc

Planning Officer, Newark and Sherwood District
Council

A. Coombe
MRICS FAAV

Sanham Agricultural Planning Limited

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Email dated 13/01/21 from A.W. Atkinson detailing marketing since September 2020 with copies of Farmers Weekly adverts attached and a letter from SDL Property Auctions detailing their involvement with the appeal property in 2019
- 2 Email dated 14/01/21 from A.W. Atkinson stating that the interested party who made an offer on the dwelling was not a credible purchaser with a letter attached from Nottinghamshire Police stating that the individual had been convicted of fraud.

DOCUMENT SUBMITTED PRIOR TO THE HEARING AT THE REQUESTS OF THE INSPECTOR

- 1 Plan of the bungalow showing the internal room layout.