



Appeal Decision

Site visit made on 25 March 2021

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/P1045/Q/20/3256289

Foxgloves, Chesterfield Road, Rowsley, Derbyshire DE4 2NN

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to modify a planning obligation.
 - The appeal is made by Mr Eric Bautsch against the decision of Derbyshire Dales District Council.
 - The development to which the planning obligation relates is for the erection of an agricultural workers dwelling approved under planning application reference 00/07/0516.
 - The planning obligation, dated 15 March 2001, was made between Mr Stephen Buckingham and Mrs Shirley Buckingham and The Royal Bank of Scotland PLC and Blemain Finance Limited.
 - The application Ref 20/00023/S106M, dated 27 December 2019, was refused by notice dated 25 June 2020.
 - The application sought to have the planning obligation modified as follows: to remove bullet 3 on page 4 of the agreement (which relates to an agricultural tie).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the obligation still serves a useful purpose and would continue to do so with, or without, the proposed modification.

Reasons

3. At my site visit I could see that the dwelling subject to the agricultural tie in dispute was substantially complete and occupied. The evidence before me suggests that the dwelling was originally granted consent because of its links to supporting agriculture and rural enterprise.
4. The Council's current development plan postdates the obligation. I therefore appreciate that the content of the Council's development plan may have been subject to change since it was signed. However, I have not been provided the historic content of the previous development plan to make an informed judgement as to the potential extent of that.
5. That said, Policy S4 of the adopted Derbyshire Dales Local Plan December 2017 (DDLDP) still requires that new development outside of settlement areas protects the intrinsic landscape and setting of the Peak District National Park. Criterion (i), point number six, of the policy seeks that new residential development meets the essential requirements of agriculture or other rural based enterprise in accordance with Policy HC13.

6. Policy HC13 of the DDLP relates to the provision of dwellings to meet the needs of agricultural and rural based workers. Its criteria include demonstrating an established functional need, and that the need relates to a full-time worker or one who is primarily employed in agriculture or other rural based enterprise which needs to be located in the area.
7. In all cases Policy HC13 also sets out that the Council will: seek to prevent the sale of the dwelling separately from the site itself or any part of it without prior approval; limit occupation of the dwelling to a person solely based in a rural based activity or; to a person solely, mainly or last employed in agriculture within the locality, or to a widow or widower of such persons and to any dependants. The current aims of the development plan in force are therefore comparable to what the agreement subject to appeal presently achieves.
8. There is some reliance on planning conditions stated by the existing development plan policies, but the disputed clause within the obligation contains specific wording relating to retirement and links to the locality that condition 3 of planning permission 00/07/0516 does not fully address. There are also related land management issues which the obligation deals with, when read as a whole, with the clause applied. Moreover, when applying current national guidance there is nothing to prevent an obligation being entered into by parties to manage rural development in line with locally defined requirements.
9. Overall, there is nothing provided within the evidence which gives me sufficient assurances that the sole reliance on the condition within the original planning permission would be appropriate. The s106 enables the Council to properly enforce the use of the dwelling for its intended purpose which is linked to supporting agriculture and rural enterprise within the district.
10. Accordingly, having considered all of the appellant's points, I conclude that the planning obligation still serves a useful purpose. The modification would limit enforceability of the original aims of the agreement. Thus, it should continue to have effect without modification.

Conclusion

11. For the reasons given above the appeal does not succeed.

M Shrigley

INSPECTOR