



Appeal Decision

Site visit made on 23 February 2021

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2021

Appeal Ref: APP/X0360/W/20/3263581

East Court Farm, The Village, Finchampstead RG40 3SD

- 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 Mrs Karen Taylor against the decision of Wokingham Borough Council.
 - The application Ref 201122, dated 1 May 2020 was refused by notice dated 2 July 2020.
 - The application sought planning permission for proposed erection of detached bungalow without complying with a condition attached to planning permission Ref 96/64049/F, dated 27 August 1996.
 - The condition in dispute is No 3 which states that: *'The occupation of the agricultural workers' dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants'*.
 - The reason given for the condition is: *'Permission would not normally be granted and this consent is justified only by the applicant's personal circumstances'*.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the disputed condition is reasonable, having regard to the policies of the development plan and national planning policy.

Reasons

3. The appeal site is located within an area of rural character, on the outskirts of the village of Finchampstead. Planning permission was granted in August 1996 for the erection of a detached bungalow, subject to a condition restricting its occupancy to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants. This is because the site lies in an area where a dwelling with unrestricted occupancy would not normally be permitted.
4. There is a lengthy planning history associated with the appellant's property. Two planning applications¹ have previously sought the removal of the condition restricting the occupancy of the dwelling. Both applications were refused by the Council and subsequently dismissed on appeal², the Inspectors considering that the disputed condition had not outlived its usefulness, and that there was still a

¹ Local Planning Authority References VAR/2001/5508 and VAR/2005/5979.

² Appeal Decisions References APP/X0360/A/03/1131369 and APP/X0360/A/06/2010978.

realistic prospect that a greater price reduction would lead to a sale to someone in the area who would meet the terms of the agricultural occupancy condition. In November 2010, an Enforcement Notice was issued for the alleged breach of the disputed condition, which was appealed against. The Inspector found that the breach of the condition had not continued uninterrupted for 10 years and was not consequently immune from enforcement action.

5. The national Planning Practice Guidance (the PPG) states that people living in rural areas can face particular challenges in terms of housing supply and affordability³, and the nature of rural housing needs can therefore be reflected in the spatial strategy set out in relevant policies. As set out in Policy CP11 of the Wokingham Borough Core Strategy⁴ (CS), development in the countryside is only permitted in restrictive circumstances, including proposals which contribute to diverse and sustainable rural enterprises within the borough, and other countryside-based enterprises and activities. Although this policy predates the National Planning Policy Framework (the Framework), it is nevertheless broadly consistent with national policy in that it advises against the development of isolated homes in the countryside, other than in a limited number of defined circumstances.
6. The principle of a condition restricting the occupation of the premises is not disputed by the parties. However, the appellant seeks to vary the wording of the condition, so that instead of being solely restricted to persons working (or last working) in agriculture or in forestry, the appeal property can also be occupied by rural workers. The planning application was supported by letters from an agent specialised in the rural property market and an agricultural planning consultant.
7. The disputed condition was imposed prior to the publication of the Framework, but I am satisfied that, having regard to the available evidence, it still serves a planning purpose in helping to maintain a supply of dwellings for people employed in agriculture and forestry. The existing condition is precisely worded and enforceable. It also remains necessary and reasonable, as it restricts the occupancy of a dwelling which was permitted in exceptional circumstances, in a location where residential development would not normally be permitted.
8. The PPG⁵ refers to exceptional occasions where development that would not normally be permitted may be justified because of who would benefit from the permission, including conditions restricting accommodation in the open countryside to agricultural or forestry workers. To my mind, there is no express requirement to frame conditions in a manner which reflects the exact terms used in the Framework, but they should nevertheless be tailored to the circumstances of the case.
9. Limited details specific to the circumstances of the appeal property have been presented to justify the proposed variation of the disputed condition, other than to reflect the wording of paragraph 79a) of the Framework and evolving modern day rural working practices. In particular, there is no substantive evidence, for example in the form of a detailed marketing exercise, to ascertain the demand for agricultural dwellings in the locality, and at a price reflecting

³ Paragraph: 009 Reference ID: 67-009-20190722.

⁴ Adopted 29 January 2010.

⁵ Paragraph: 015 Reference ID: 21a-015-20140306.

the occupancy restriction imposed by the condition. Similarly, there is no suggestion that the current occupiers of the property intent to or presently undertake an occupation which does not meet the restrictions of the existing condition. In the absence of such information, it cannot be established whether the present wording of the condition is unduly restrictive and consequently, would for instance prevent the sale of the property.

10. My attention has been drawn to an appeal decision⁶ where, in allowing a proposal for the conversion of an agricultural building to a temporary agricultural dwelling, the Inspector restricted its occupancy to persons working in the locality in a rural enterprise. Without the full details of the scheme, I cannot be sure that this appeal represents a direct parallel to the proposal before me. In each case, it is up to the decision-maker to consider whether to restrict the occupation of residential accommodation in the countryside (and if so, to which extent), having regard to the particular circumstances of the case, the development plan, national planning policy and guidance.
11. Given the above, I see no justification for varying the disputed condition on the sole basis that it does not in its present form reflect the wording of paragraph 79 of the Framework or modern day rural working practices. In the absence of further evidence to the contrary, I cannot be satisfied that the disputed condition could be varied in a manner which would ensure that the development would remain in accordance with CS Policies CP1, CP6 and CP11, Policy CC02 of the Wokingham Borough Development Plan Adopted Managing Development Delivery Local Plan⁷. These notably seek to promote sustainable forms of development and restrict proposals outside development limits, to protect the separate identity of settlements and maintain the quality of the environment. Similarly, there is no certainty that it would accord with paragraph 79 of the Framework or meet the tests set out in paragraph 55.

Conclusion

12. There are no considerations which indicate that the appeal should be determined other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

⁶ APP/G1360/A/13/2195695.

⁷ February 2014.