



Appeal Decision

Hearing Held on 29 June 2021

Site visit made on 30 June 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2021

Appeal Ref: APP/V2723/W/21/3270757

Cocklebury House, West Lane, Dalton On Tees DL2 2PP

- 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 M Carvey against the decision of Richmondshire District Council.
 - The application Ref 20/00608/VAR, dated 21 August 2020, was refused by notice dated 20 November 2020.
 - The application sought planning permission for erection of bungalow with private garage in connection with a proposed smallholding without complying with a condition attached to planning permission Ref 3/1/39B, dated 5 September 1962.
 - The condition in dispute is No 1 which states that: *The occupation of the bungalow shall be limited to persons whose employment or latest employment is, or was employment, in agriculture as defined by Section 119(1) of the Town and Country Planning Act, 1947, or in forestry or in an industry mainly dependent upon agriculture and including also the dependents of such persons as aforesaid.*
 - The reason given for the condition is: *The property is situated in a rural area where development should be restricted to that which is essential in the interests of agriculture.*
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Decision

1. The appeal is allowed and planning permission is granted for erection of bungalow with private garage in connection with a proposed smallholding at Cocklebury House, West Lane, Dalton On Tees DL2 2PP in accordance with the application Ref 20/00608/VAR dated 21 August 2020, without compliance with the conditions previously imposed on the planning permission Ref 3/1/39B dated 5 September 1962.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the date of the Hearing. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the comments and the Framework in reaching my decision.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary, having regard to development plan policy, to meet an essential need for a dwelling to accommodate a rural worker.

Reasons

4. Planning permission for the appeal dwelling was originally permitted in connection with a smallholding, and was granted subject to the disputed agricultural occupancy condition. Although the original permission related to a smallholding, the site subsequently developed into a sawmill. The sawmill has since been replaced with a number of businesses and storage units.
5. As well as the appeal dwelling, there are two other dwellings previously associated with the sawmill, namely Tall Trees and Woodstock. The occupancy conditions of both of these other properties have in effect been removed as they have been occupied in breach of the conditions in excess of 10 years. This situation has been established by a planning approval in relation to Woodstock and a Certificate of Lawfulness in respect of Tall Trees.
6. In contrast to the nearby dwellings, the appeal property has been occupied in accordance with the original occupancy condition which remains in place. The condition is generally phrased, and does not include a limitation in respect of an agricultural worker employed in the locality. This wording does not reflect the current 'model' condition referred to by the appellant in respect of the limitations regarding locality, and the appellant would not comply with this model condition.
7. In respect of the need for a rural worker to live at this particular site, any physical or functional link with the smallholding and sawmill no longer exists. There is no evidence of any other rural enterprise in the immediate area which would benefit from the proximity of the appeal site to the operation.
8. However, there may be a wider need for rural worker's housing in the area. If that is the case, then the appeal property could potentially meet that need. The appeal site has been valued at £265,000 as an open market dwelling, and at £235,000 with the disputed condition in place. The appellant submits that the latter figure allows for a reasonable reduction in value, as the extant condition is not as restrictive on occupation as the conditions which are now commonly used. The Council accepts that the valuation is reasonable.
9. The appellant has undertaken a detailed Need Assessment¹ in relation to the demand and supply of housing, including for rural workers, in the wider District as well as the local area.
10. With regards to permissions granted for dwellings for rural workers, all of the identified permissions were based on a site specific requirement, which the appeal site would not be able to meet. A number of agricultural occupancy conditions on other sites have also been removed, and whilst this reflected the number of new permissions there is no evidence that these could have met a site specific need.

¹ Document B: Up To Date Assessments of Need - District Wide.

11. The Council refers to a multitude of jobs where rurally based accommodation is necessary. However, based on the evidence before me, that necessity is based on site specific requirements rather than a wider need for rural worker accommodation. I asked the Council to elaborate on the nature of the jobs it considers require rurally based accommodation such as could be provided by the appeal site, but the only example that was given was for agricultural contractors similar to the appellant's circumstances. More fundamentally, it was not demonstrated why this need could not be met by open-market dwellings within settlements.
12. Dwellings subject to an occupancy condition can be more affordable for rural workers. That said, the reduction in price of the appeal property with the extant condition is limited due to the general wording of the condition, and the Council has accepted that the valuation is reasonable. The appellant's evidence identifies a significant number of properties in the area which are for sale at or below that valuation. This demonstrates that even if there is a need for rural workers accommodation at a similar price to the appeal property, this can be met by existing housing in the area.
13. There was some discussion at the Hearing as to whether temporary dwellings and rental accommodation, as well as the availability of rural worker dwellings, had been satisfactorily addressed in the appellant's evidence. However this discussion did not demonstrate that the appellant's conclusions regarding the functional requirements of recent permissions and the availability of wider market housing was flawed.
14. The Council submits that evidence of a marketing exercise to demonstrate a lack of agricultural need has not been provided. There is no adopted planning policy requirement for a marketing exercise to be undertaken, but I acknowledge that a marketing exercise is a common and robust method for establishing if there is a need for a particular form of housing. However, given the circumstances of the appeal property, including the valuation and the severance of any direct link with nearby rural enterprises, the appellant's evidence is equally robust in demonstrating that need which could be met by the appeal site can equally be met by open market housing.
15. The Council also refers to the lack of supporting expert evidence on the demand or availability of housing in the wider agricultural community, for example provided by local land agents. However, based on the evidence before me, I am not persuaded that evidence from land agents or similar would demonstrate that the appeal site could meet demand from rural workers when open market housing could not. Moreover, the appellant has provided evidence on need which is substantive in its own right, and the Council has not provided independent evidence from land agents in support of its case to demonstrate otherwise.
16. It is common ground between the parties that the appeal dwelling is not isolated under the terms of paragraph 80 of the Framework. However, this cluster of buildings is not a defined settlement and contains minimal, if any, services and facilities. Although the settlement boundaries of the development plan are of some age and may be out of date, the group of buildings containing the appeal site has the characteristics of sporadic development in the countryside rather than an identifiable settlement.

17. Nevertheless, the site is isolated from services, and residents are likely to rely on the private vehicle to meet many of their everyday needs such as shopping, education and employment. There is a bus service with a stop in close proximity to the site, although I do not consider that this will significantly reduce trips by private vehicle for reasons of convenience. However, these considerations would also apply to a rural worker occupying the dwelling. This is particularly the case as a physical and functional link with nearby rural enterprises no longer exists, with the result that there is no substantive benefit arising from a reduction in travel to work.
18. The Council refer to the proposal setting a precedent for future development. However, the council confirmed at the Hearing that it was not aware of other permissions with a similarly worded condition, and given the relatively unusual planning history of the appeal site and adjacent uses I do not consider that this Decision will fetter the Council's future consideration of rural worker occupancy conditions. Reference was also made to the potential for infill or ribbon development, but that is materially different to the appeal proposal and I consider that such development would be adequately addressed on its own merits.

Conclusion

19. For the reasons set out above, I conclude that the disputed condition, or a reworded condition, restricting occupancy of the appeal site to meet an essential need for a dwelling to accommodate a rural worker is not reasonable or necessary.
20. The appeal proposal would result in an open market dwelling located beyond the defined Development Limits, contrary to paragraph 2.a of Policy CP4 of the Richmondshire Local Plan Core Strategy 2014. However, the circumstances of the appeal site indicate that the decision should be made other than in accordance with the development plan.
21. Reference has been made to policy H5 of the emerging Local Plan². The proposal would conflict with this policy as it specifically requires that the property is marketed to demonstrate that there is no demand from rural workers, amongst other requirements. However, given the stage of the plan, and the likelihood of unresolved objections highlighted at the Hearing, this policy carries very little weight and is not a determinative factor in my consideration of this appeal.
22. In addition to the disputed condition, two other conditions were placed on the original permission in respect of the removal and renovation of buildings on the site. However, due to the period of time since the original permission and the circumstances of the site, it was agreed by the main parties at the Hearing that it is not necessary to re-impose those conditions.
23. The appeal is therefore allowed.

David Cross

INSPECTOR

² Richmondshire Local Plan 2018-2038 Preferred Options Consultation (Reg 18).

Appearances

FOR THE APPELLANT:

Caroline Parsonson	Agent
Mike Oakley	Researcher for agents
Mike Carvey	Appellant

FOR THE COUNCIL:

Beverly Booth	Planning Officer
Mark Robson	Principal Planning Officer
Caroline Walton	Planning Officer (Observer)
Alison Pilkington	(Observer)