
Appeal Decision

Site visit made on 29 March 2022

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal Ref: APP/D1265/W/21/3281008

The Bungalow, Brooklands Farm, Horton, Wimborne, Dorset BH21 7JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Philip Bascombe against the decision of Dorset Council.
 - The application Ref 3/21/0503/CONDR, dated 22 February 2021, was refused by notice dated 2 July 2021.
 - The application sought planning permission to develop land by erection of agricultural dwelling without complying with a condition attached to planning permission Ref P/A 432649 dated 11 April 1969.
 - The condition in dispute is No 2 which states that: The occupation of the dwelling shall be limited to persons employed or last employed locally in agriculture, as defined in section 221(1) of the Town and Country Planning Act, 1962, or in Forestry, and the dependants of such persons.
 - The reason given for the condition is: This permission is only granted having regard to the need for this dwelling to house an agricultural worker.
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Decision

1. The appeal is allowed and planning permission is granted to develop land by erection of agricultural dwelling in accordance with the application Ref 3/21/0503/CONDR, dated 22 February 2021, without compliance with condition number 2 previously imposed on planning permission P/A 432649 dated 11 April 1969.

Application for costs

2. An application for costs was made by Philip Bascombe against Dorset Council. This application is the subject of a separate Decision.

Procedural Matter

3. The parties agree that outline permission was granted in 1969 pursuant to Ref P/A 432649. Attached to the outline permission are three conditions; the first required submission of reserved matters; the second restricted occupancy to a person employed locally in agriculture or forestry and the dependants of that person; and the third restricted the life of the permission to three years should the first condition not be complied with.
4. Subsequently a reserved matters permission was granted, Ref P/A 436614/H. This was the permission against which the application to remove the condition

was initially made by the Appellant as the Council was unable to provide a copy of the original outline permission at that time. The Council located the original permission during the application process and at that time it would have been prudent to agree in writing with the Appellant a change in the description of what had been applied for, and any associated changes to references.

5. The Council's Officer report referred to the outline permission when considering the application, the Council advised that they considered the third condition on the reserved matters to be erroneous in its duplication, and that the condition that should be considered was the agricultural occupancy condition attached to the outline permission.
6. Throughout the course of the appeal I have sought to confirm with both parties that the references to the reserved matters permission were made in error, and both parties have confirmed that the correct reference related to the outline permission. Accordingly, I have determined the appeal on that basis.

Main Issue

7. The main issue is whether the disputed condition is reasonable and necessary to meet an essential need for a dwelling to accommodate a rural worker.

Reasons

8. Planning permission for the appeal dwelling was originally permitted in connection with an agricultural dwelling to serve Brooklands Farm, a dairy farm of some 60 acres. The farm was subsequently sold to Paradise Farms limited, which is the adjoining 400 acre holding, however Paradise Farms Limited has sufficient housing to meet its required staffing needs. Accordingly, the agricultural property which the dwelling was originally tied to no longer exists, and due to existing rural worker housing supply within the larger holding it is not required to serve the amalgamated holding. Due to its location within an existing, amalgamated holding, the site is somewhat cut off from the wider range of agricultural holdings in the area.
9. In respect of the need for a rural worker to live at this particular site, any physical or functional link with the original smallholding no longer exists. Furthermore, the larger holding known as Paradise Farm Limited, does not require any additional accommodation to that which it has historically had. Having regard to the unique position of the dwelling, and the merging of the two farms, 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. The reality is that occupiers would have to travel some distance from the site in order to work within agriculture or forestry.
10. A substantial extension to the dwelling on the appeal site, which increased the floor area by more than 50%, was allowed in 2021. Whilst not built, the potential to significantly increase the size of the property resulted in an open market valuation of approximately £650,000 were the property to be sold without a tie. The process for this involved the valuer seeking comparable evidence and using that evidence to come to a valuation, after making any suitable adjustments. I have no evidence before me to suggest that this is an unreasonably high valuation having regard to the area and the particulars of the site. The rental value was identified at circa £1500.00 per calendar month. Having regard to the average salary for an agricultural working being in the

region of £27000.00 per annum, the property did not attract interest from potential leasehold occupiers able to comply with the restriction.

11. The vendor was advised that in order to reflect the presence of an agricultural tie a reduction of some £200,000 would need to be made to the open market value, and that any advertised price would need to be a guide price to allow possible relevant offers to be made by those able to comply with the agricultural occupancy restriction. Even taking account the reduction in price, the value of the property would render it beyond the viable means of a number of potential purchasers.
12. The property was marketed for a period of six months during the latter part of 2020. Whilst travel was restricted in November and December of 2020 due to the covid pandemic, during the summer and autumn months people were allowed, and encouraged, to travel and the housing market saw a surge in activity through in person viewings and the ability to view properties virtually. The marketing exercise included the use of local press and the internet to alert potential buyers, both locally and further afield, that the property was on the market and the property was eventually sold by way of auction. The use of online portals to promote and sell homes is now a standard method of marketing, and for many it has replaced the more traditional routes of registering with estate agents. In any event, the agent used in connection with the sale is agreed by all parties to be a reputable agent with significant experience within the agriculture sector, and therefore in a position to ensure full and extensive coverage in respect of reaching perspective buyers.
13. I note that the four permissions for agricultural worker dwellings approved by the Council in the last five years all related to dwellings necessary for direct oversight of the respective holding, namely the dwellings were necessary to allow an agricultural worker continuous supervision of an activity on a related farm. Those decisions identify that there are instances where it is justified to provide a dwelling that allows a worker to live and work on an associated agricultural holding. However, the four approvals did not allow dwellings where travel would be necessary, reaffirming the approach that within the area it is necessary for a worker to be as close to the agricultural holding as possible. They are materially and fundamentally different to this case, where the dwelling has become isolated from its very purpose.
14. I note the Council's approach that the marketing period was not appropriate and that a minimum of twelve months should have been applied. However, I have not been directed to evidence that this is a policy requirement, and it is reasonable to conclude that an appropriate period would depend on the individual circumstances of any particular case. I have been referred to an appeal decision in this respect¹. In that case the Council had a policy explicitly detailing the necessary marketing requirement that would need to be undertaken to justify the removal of a condition, that is materially different to the circumstances before me. I note the Inspector's approach to an appropriate marketing period, again these comments were made having regard to policy requirements. In respect of this case, the property was marketed by a local agent with relevant expertise, and having regard to the specific nature of this dwelling that has been isolated from any agricultural holding, I consider that the marketing period required would be materially different.

¹ APP/B3030/W/20/3259416

15. I am satisfied that, having regard to the specialised nature of the agent who has a particular expertise in the local area and industry requirements, the property was properly marketed. The evidence demonstrates that there was no local interest raised generally by those eligible to purchase the property. The property has become isolated from the enterprise that it once served, and indeed from those in the locality due to the amalgamation of the agricultural holdings. Despite a marketing exercise that was extended to allow for local interest, there has not been a potential purchaser capable of complying with the restriction. I find that, in this case, the condition is no longer necessary nor reasonable.

Other matters

16. The Council considers that without condition 2 the bungalow would be inappropriate development in the Green Belt. However, in this current appeal the building already exists, the change in occupancy would not itself result in the construction of a new building. Accordingly, it is not necessary for me to consider the question of Green Belt inappropriateness any further in this instance.

Conclusion

17. For the reasons set out above, I conclude that the disputed 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.

18. The appeal proposal would result in an open market dwelling located beyond the defined Development Limits, contrary to the Local Plan. However, the circumstances of the appeal site indicate that the decision should be made other than in accordance with the development plan.

19. In addition to the disputed condition, two other conditions were placed on the permission in respect of commencement and materials. However, due to the period of time since the permission was issued, and the circumstances of the site, I do not consider it necessary to re-impose those conditions. I conclude that the appeal is allowed.

J Ayres

INSPECTOR