



Appeal Decision

Hearing held on 21 December 2022

Site visit made on 21 December 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/X1545/W/21/3283142

Wagtails, Chelmsford Road, Purleigh CM3 6QN

- 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 and Mrs M Johnson against the decision of Maldon District Council.
 - The application Ref VAR/MAL/21/00629, dated 10 June 2021, was refused by notice dated 5 August 2021.
 - The application sought planning permission for erection of bungalow for smallholding Manager without complying with a condition attached to planning permission Ref MAR/499/72, dated 4 October 1972.
 - The condition in dispute is No 4 which states that "*the occupation of the dwelling hereby permitted shall be limited to persons wholly or mainly employed, or last employed, locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act, 1971, or in forestry, and a dependent of such a person residing with him (but including a widow or widower of such a person)*".
 - The reason given for the condition is "*the local planning authority would not be prepared to permit the erection of (a) dwelling house(s) on this site unconnected with the use of the land or adjoining land(s) for agricultural purposes*".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of bungalow for smallholding Manager at Wagtails, Chelmsford Road, Purleigh CM3 6QN in accordance with the terms of the application, Ref VAR/MAL/21/00629, dated 10 June 2021 without compliance with the conditions previously imposed on the planning permission Ref MAR/499/72 dated 4 October 1972 and subject to the following new condition:
 - (1) The vehicle turning space to the front of the property shall be maintained in perpetuity.

Background and Preliminary Matters

2. Planning permission Ref MAR/499/72 (Planning Permission) authorised the construction of a residential bungalow. Condition 4 attached to the Planning Permission restricts occupancy of the dwelling to an agricultural or forestry worker (or their dependents). The current occupiers do not meet this occupancy criteria, and the condition is therefore being breached. The appellants have sought to remove the condition from the Planning Permission, on the basis that it is no longer reasonable or necessary.

3. Notwithstanding condition 4 (which is the subject of this appeal), the Planning Permission was also subject to six other conditions. The parties have suggested that none of these conditions remain necessary, as they are no longer needed to procure the acceptability of the development. Specifically, conditions 1, 2 and 3 required the submission and approval of reserved matters, and prescribed the timetable for this (as well as implementation) to occur. Conditions 5, 6 and 7 related to the delivery of adequate vehicle turning space, drainage and access.
4. Given that the dwelling is complete and now long-established, most of these matters have already been addressed. Nonetheless, condition 5 attached to the Planning Permission does require the vehicle turning space to be maintained, which is an ongoing requirement. This condition remains necessary, to ensure vehicles can safely manoeuvre when accessing and egressing the property. I have therefore reworded this condition, to ensure this remains the case. Otherwise, I agree that the remaining conditions do not need to be reimposed, as they would no longer serve a useful purpose (nor would they continue to meet the test of necessity).
5. Whilst references have been made to Policy CC16 of the former Maldon District Replacement Local Plan 2005, this policy has now been superseded by Policy H7 of the Maldon District Approved Local Development Plan 2014 – 2029 (Local Plan). I have therefore determined this appeal with regard to Policy H7, which concerns Agricultural & Essential Workers' Accommodation.

Main Issue

6. The main issue is whether condition 4 of the Planning Permission remains necessary and reasonable, having regard to the development plan and the need for rural worker dwellings in the local area.

Reasons

7. The appeal property (known as Wagtails) is a detached bungalow located on the north-eastern side of Chelmsford Road. The dwelling was originally constructed to house a smallholding manager who was employed to work the land surrounding the dwelling at the time. The house is now under separate ownership from the wider land, and no longer has any functional link to the smallholding. In turn, the parties agree that the dwelling is no longer needed in connection with any particular agricultural or forestry enterprise. Nonetheless, the Council alleges that the dwelling could still meet a general demand for rural worker dwellings within the wider locality.
8. The Council has cited a number of planning permissions which have been granted in recent years for new rural worker dwellings, and contends that these examples are indicative of a continued demand for such properties within the area. Whilst I accept these permissions do demonstrate some degree of demand, this factor must be considered against actual levels of demand arising from the marketing of this property.
9. The appellants marketed the appeal property for sale between October 2019 and May 2020, and again between October 2020 and May 2021. The guide price was based on three independent valuations, and factored in a 25% discount against market value to account for the agricultural occupancy condition. During the Hearing, the Council accepted that the level of discount

applied was reasonable, and reflected a typical reduction in price for properties subject to an agricultural tie. There is no reason before me to disagree with this conclusion. Moreover, the appellants have provided sales particulars of a number of comparable properties within the wider area, which are consistent with the price sought in connection with the appeal property. Whilst the Council alleges that the guide price was too high, no evidence has been presented to substantiate its position in this regard. On the given information, I am therefore satisfied that the guide price was fair and reasonable.

10. The marketing included print adverts in Farmers Weekly, the Farmers Guardian and the Maldon Standard, internet marketing on Acorus and Zoopla, and direct marketing to 30 agricultural holdings within the area. The marketing was therefore thorough and comprehensive. Nonetheless, there was very little interest in the property during either of these marketing periods, and ultimately no offers for the dwelling were received by the appellants. In the context of the fair and reasonable guide price, this lack of interest does suggest an absence of demand for agriculturally tied properties within the locality.
11. The appellants have also presented empirical evidence to demonstrate an 8% decline in the level of agricultural labour force in the county of Essex between 2005 and 2016. Whilst this data relates to agricultural workers only (as opposed to forestry or other rural workers), it is logical to infer that a decline in the agricultural labour force would have a corresponding impact in terms of need for rural workers' accommodation in the area.
12. These statistics therefore support the appellants' assertion that there is a lack of general need for rural worker dwellings in the area, a position which is further corroborated by the unsuccessful marketing campaigns in respect of the appeal dwelling. I find these factors are more closely attuned with actual levels of general need for such dwellings in the locality, rather than the examples of planning permissions granted for new rural worker dwellings in recent years, each of which are very specific to the needs of a particular rural enterprise.
13. In policy terms, Policy H7 of the Local Plan sets out criteria that must be met for any new permanent or temporary agricultural and essential workers' accommodation. The supporting text to the Policy highlights that its purpose to "*protect the rural nature of the District*". Part of the underlying policy objective is therefore to protect the countryside from unnecessary residential development, in order to safeguard its landscape quality.
14. In terms of the appeal dwelling, whilst the local area is rural in nature, the surrounding built context is now very different to how it was when the dwelling was first permitted. Indeed, the dwelling now sits within a ribbon of other residential properties along Chelmsford Road. This means it assimilates effectively within the built up frontage of the highway, without harm to the wider countryside setting. In turn, and irrespective of the condition, the development would now be broadly consistent with the underlying objectives of Policy H7, as there is no identifiable harm arising from the dwelling to the wider landscape quality of the area. For similar reasons, the development would also be consistent with the aims of paragraph 80 of the National Planning Policy Framework (2021) (Framework), which seeks to avoid isolated homes in the countryside.
15. I acknowledge the Council's argument that removal of the condition could lead to pressure to provide a further agricultural dwelling elsewhere within the

countryside, which in turn could harm landscape character. Nonetheless, without any strong evidenced need or demand in the locality for such properties, I only attach limited weight to this factor.

16. In summary, the dwelling is not needed in connection with any particular agricultural or forestry enterprise, nor is there any strong evidenced demand for a rural worker's dwelling within the wider locality. The condition is also no longer necessary to procure the acceptability of the development with regard to Policy H7 of the Local Plan, nor the provisions of the Framework. On account of these factors, I consider that the condition does not remain necessary to the procure the acceptability of the development. Moreover, the continued imposition (and enforcement) of the condition would risk the property being left vacant for an indefinite period, as it is unknown whether the appellants would be able to find occupiers who would meet the relevant occupancy criteria. Given the evidenced lack of demand for such properties, this would be unreasonable. On this basis, I consider that the condition does not meet the tests of necessity nor reasonableness, as set out in the Framework and Planning Practice Guidance (PPG).

Other Matters

17. The Council has cited an appeal decision relating to Honeywood Farm¹ to support its position, which also concerned the removal of an agricultural occupancy condition. In the Honeywood decision, the Inspector found in favour of the Council, and concluded that the history of planning permissions for new rural worker dwellings within the district did evidence demand for such properties. Whilst I agree that the history of planning permissions for new rural worker dwellings is a relevant factor in establishing demand, the evidence pointing to a lack of actual demand for the appeal dwelling is more persuasive in this instance. Furthermore, the circumstances relating to Honeywood Farm were very different to the present case, as the dwelling at Honeywood Farm remained functionally linked to a former agricultural holding, which included a number of former agricultural buildings. This meant there was greater potential for that particular dwelling to be used in connection with a future rural enterprise on the adjoining land. Conversely, the appeal dwelling in this instance no longer has any specific functional link to wider farmland, which significantly limits its potential in this regard. It is also worth noting that a subsequent planning application to remove the agricultural occupancy condition at Honeywood Farm has since been granted. In turn, I only attach limited weight to this appeal in my decision.

Conclusion

18. Condition 4 of the Planning Permission no longer meets the tests of necessity nor reasonableness, as set out in the Framework and the PPG. The appeal should therefore be allowed, and the Planning Permission is varied by removing condition number 4, as well as all other redundant conditions, previously attached.

James Blackwell

INSPECTOR

¹ APP/X1545/W/17/3167028

Appearances

FOR THE APPELLANT

Ben Elvin MSc MRTPI, Ben Elvin Planning Consultancy Ltd (Agent)

Nicola Johnson (Appellant)

Roger Thomason

FOR THE COUNCIL

Michael Johnson BSc (Hons), Lead Specialist Development Management (Maldon District Council)