



Appeal Decision

Site visit made on 17 January 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/A0665/W/22/3299947

Green Bank Farm, Withy Lane, Broxton, Chester CH3 9JP

- 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 JH & RK Siddorn against the decision of Cheshire West and Chester Council.
 - The application Ref 21/04631/S73, dated 16 November 2021, was refused by notice dated 13 May 2022.
 - The application sought planning permission for the erection of a single storey dwelling on land adjacent to Withy Lane, Broxton to provide accommodation for a stock manager, dwelling to have basement of an area similar to the ground floor area of the proposed dwelling, without complying with a condition attached to planning permission Ref 12/00117/OUT, dated 30 August 2012.
 - The condition in dispute is No 10 which states:
The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.
 - The reason given for the condition is:
To ensure that the dwelling addresses the identified functional need.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was previously granted for a cattle quarantine unit at the appeal site. Permission was then approved for an associated agricultural dwelling adjacent to the quarantine unit, as a need for an essential rural workers dwelling at the appeal site had been demonstrated (the 'original permission').
3. Condition No 10, referred to above, was attached to the original permission, which restricted the occupation of the dwelling to a person in connection with agriculture or forestry. The appellant now wishes to remove this condition, due to changed circumstances, which will be expanded upon below.
4. The main issue is therefore whether the condition is necessary and reasonable having regard to the location of the appeal site.

Reasons

5. This appeal relates to the approved detached dwelling adjacent to the cattle quarantine unit. At the time of my site visit, it appeared that site preparation,

ground works, laying of a concrete slab and partial wall for the approved dwelling had been carried out. Indeed, I note that the Council approved a Lawful Development Certificate¹ (LDC) which confirmed that the development had lawfully commenced.

6. The appeal site is located off a rural lane within the open countryside which is characterised by vast expanses of fields. The area is designated as an Area of Special County Value. With regards to residential development, the Council's development plan seeks to restrict housing in rural areas to those which require a countryside location to ensure that dwellings are in accessible places and do not harm the characteristics of the countryside. Through the original permission, the appellant demonstrated that there was an associated need for an agricultural manager's dwelling to be located adjacent to the quarantine unit.
7. The appeal proposal, through the removal of condition No 10, would result in an unrestricted dwelling within the countryside. Whilst in relatively close proximity to shops and services, the provision is very limited and the route to them from the appeal site lacks pavements and street lighting. It also appears to be a busy highway with a high speed limit. Thus, accessing these services on foot or by bicycle would be an unattractive option. It also seems to me that public transport options in the locality, which may provide access to a greater range of shops and services elsewhere, are very limited. As such, the appeal site would not represent a suitable location for housing in this regard.
8. A dwelling in this location would also result in harm to the open countryside and Area of Special County Value as the introduction of built form would erode the rural and open landscape character. It would therefore fail to preserve the distinctiveness of this locality.
9. Policy DM25 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the 'CWCLP2') concerns permanent rural workers dwellings and sets out the criteria which must be met. The explanatory text to this policy notes that, where it can be demonstrated that the essential need for a dwelling to serve the enterprise has fallen away, the Council has been and will continue to be flexible in removing legal obligations. I agree that this policy and its explanatory text does not explicitly stipulate that the dwelling has to have been constructed or occupied.
10. The appellant has provided detailed information with regards to the farm enterprise, particularly in relation to the change in circumstances over recent years and notably the time between the approval of the quarantine unit and the dwelling. It is stated that the quarantine unit at Green Bank Farm has never and will never be utilised for its intended purpose. I also note the concerns regarding succession of the appellant's farm and thus the recent retraction of farming activities. It seems to me that, as there is no requirement for the adjacent quarantine unit, by default there is no need for the associated dwelling. Both are now surplus to requirements. As such, it has been demonstrated that the essential need for the dwelling to serve the appellant's enterprise has fallen away.
11. However, the wording of the condition is such that it would allow for any persons working, or last working, in the locality in agriculture or forestry, or a

¹ Application Number: 20/00318/LDC

widow or widower of such a person, and to any resident dependants to occupy the dwelling. It does not solely restrict the occupation of the dwelling to someone associated with the appellant's farming enterprise. Whilst the appellant may be able to demonstrate a lack of need for the dwelling, there may nevertheless be a need and demand in the locality.

12. The evidence in respect of this matter is lacking. I have not been provided with details, such as marketing evidence, which convincingly demonstrates the need, or lack of, in the locality. I am not therefore able to accurately determine that the dwelling with occupancy restriction would also not be required in the locality.
13. It has also been suggested that the adjacent quarantine unit and associated land would be unattractive to other buyers. However, again, there is a lack of conclusive evidence to support the position that it would be 'extremely unlikely' that anybody who may conform to the condition would occupy Green Bank Farm or that an economically viable agricultural business would be unlikely to operate from the quarantine unit.
14. Based on all of this uncertainty, I cannot conclusively determine that the occupancy restricted dwelling would no longer satisfy a useful purpose and that there no longer remains a need for the dwelling, as originally approved, in the local area.
15. Nonetheless, the appellant states that they have no intention to leave the site as it currently is, as in, without a dwelling on it. They have intimated that they would consider constructing the dwelling and advertising it for sale as a tied dwelling.
16. I appreciate that a LDC has been approved and work commenced on the dwelling. However, this was a considerable time ago, following which circumstances regarding the appellant's farming enterprise have changed, as noted, and the appellant cannot personally fulfil the requirement of the condition. Furthermore, they state that their primary aim is to erect a dwelling to enable their son, who would not be working at the farm, to reside.
17. Therefore, based on the appellant's lack of need for a restricted occupancy dwelling and the lack of evidence and certainty regarding a wider local need, I am not completely convinced that the dwelling would indeed be fully constructed. As such, I consider that there is a low likelihood of completion, therefore the possibility of constructing the dwelling under the original permission would be no more than theoretical.
18. The appellant nevertheless states that the original permission represents a fallback position and, should this appeal succeed and a dwelling be constructed which is not subject to an occupancy condition, it would be of equivalent harm to the originally permitted scheme. Any harm arising from the appeal proposal to the character and appearance of the area would indeed be limited when compared with the original permission as, visually, there would be no discernible difference between them.
19. However, condition No 10 on the original permission was fundamental to the dwelling being allowed in this rural location, where unrestricted dwellings are strictly controlled by local and national policy. Therefore, if the original permission were to nevertheless be regarded as a fallback, it would be less

harmful than the appeal scheme in terms of accessibility as the occupiers would have a functional need for a dwelling in a countryside location. All of these factors lead me to afford this potential fallback position limited weight.

20. The appellant states that constructing the dwelling would improve the appearance of the site, given that it is currently unfinished. As works have previously commenced, I do not know how likely it is that the site would be returned to its original condition. Nonetheless, the extent of built form which has been carried out is not substantial and it is currently read within the context of the adjacent quarantine unit and its associated hardstanding. It clearly appears as part of this enterprise. I therefore do not consider that the proposal would result in significant or necessary improvements.
21. Accordingly, taking all the above into consideration, condition No 10 of the original permission is reasonable and necessary. Its removal would result in an unrestricted dwelling within a rural location, which would be contrary to the Council's spatial strategy and fail to accord with Policies ENV2, ENV6 and STRAT9 of Cheshire West & Chester Council Local Plan Part One: Strategic Policies and Policies GBC2, DM19 and DM25 of the CWCLP2, along with the National Planning Policy Framework, which collectively seek to ensure that developments protect local character by restricting development in the countryside to those which require such a location, amongst other things.

Conclusion

22. The proposal conflicts with the development plan when taken as a whole and there are no other considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR