



Appeal Decision

Site visit made on 23 May 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2023

Appeal Ref: APP/W3330/W/22/3296806

New House, Newport Mills Farm, Newport, Wrantage, Taunton, Somerset TA3 6DJ

- 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 Sarah Jones against the decision of Somerset West and Taunton Council.
 - The application Ref 24/21/0059, dated 2 December 2021, was refused by notice dated 28 January 2022.
 - The application sought planning permission for erection of agricultural worker's chalet bungalow without complying with a condition attached to planning permission Ref 24/87/010, stated on the application form as being dated 2 July 1987.
 - The condition in dispute is No 03 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.
 - The reason given for the condition is: The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application leading to this appeal was submitted by Mr Thomas Watson. He has since died. Evidence has been submitted that indicates the legal authority to proceed with the appeal has been passed to Sarah Jones. I have used this name in the banner heading.
3. The appellant has submitted a grounds of appeal document dated April 2022 (hereafter referred to as the appellant's original statement). An updated version of this document dated February 2023 as well as a marketing report have also been submitted. These have since been publicised and the Council and interested parties have had an opportunity to provide comments. I am satisfied no injustice would be caused by having regard to the latest documents.
4. I have been provided with a copy of a certificate of lawful use or development issued by the Council under reference number 24/15/0017/LE (hereafter referred to as the certificate of lawfulness). This is a material factor in my assessment.

Background and Main Issue

5. The disputed condition limits the occupancy of New House. In effect, this appeal seeks to remove the condition to allow unrestricted occupancy. The main issues are whether the condition is necessary, reasonable and enforceable in light of the policies of the Taunton Deane Borough Council Core Strategy 2012 (CS) and the Taunton Deane Site Allocations and Development Management Plan 2016 (SADMP) as well as the certificate of lawfulness.

Reasons

6. The appeal property is a 3 bedroom dwelling with outbuildings in its garden. It lies in a cluster of development including agricultural buildings as well as a small number of dwellings. Fields lie in the surrounding area and so there is a strong agricultural feel to the locality.
7. CS Policy SP1 looks to direct development to the most accessible locations. Proposals outside of identified settlements are to be treated as being in the open countryside. Under CS policy CP1, development should be located to reduce the need to travel. New House is not in a settlement defined in the CS and it is away from facilities to serve the day to day needs of its occupants. As such, it is in a location that normally would be deemed unsuitable for housing.
8. The original planning permission was granted on the basis the dwelling would accommodate an agricultural worker employed in the locality. Under the terms of SADMP policy H1a, housing is permissible to support rural activities subject to various criteria. This policy states that occupancy conditions will be applied to new dwellings. The disputed condition serves a purpose in ensuring that New House complies with this stipulation.
9. SADMP policy H1a sets out the circumstances when the removal of occupancy conditions will be permitted. There is no agricultural land associated with New House and so the dwelling is not needed to accommodate workers employed at the appeal property. Even so, the disputed condition refers to a person working in the locality, not just at the appeal site. Also, policy H1a requires there to be no demand for residences to accommodate agricultural workers from the local area before an occupancy condition is removed. Evidence is required that shows the dwelling cannot be sold or let at a price which reflects the occupancy restriction.
10. A marketing campaign for New House started in March 2022 with a £450,000 guide sale price. The updated statement claims that this price reflects the agricultural tie and so, in line with typical devaluation effects associated with occupancy conditions, it is 30% lower than the full market value. However, this contradicts the comment at paragraph 7 of the appellant's original statement that the £450,000 sale price reflects the full market value of the dwelling. Moreover, the appellant's evidence fails to explain how the guide price has been established and how it compares with the sale price of similar properties in the area. The Council claims there are other nearby dwellings for sale and of a similar size to New House with a lower asking price, despite not being subject to an agricultural tie. There is no evidence on local property values and sale prices that contradicts this claim.
11. In December 2022 the guide price for New House was reduced to £425,000. I am advised that there have been several enquiries but these have not resulted

in any firm offers for the property. Nonetheless, there is no convincing evidence that demonstrates £425,000 is an appropriate guide price, particularly when considering the devaluation effect of the agricultural occupancy condition. Also, there is no evidence to indicate the property has been made available for let with rent levels that reflect the occupancy restriction. As such, the provisions of SADMP policy H1a on applications to remove occupancy conditions have not been complied with.

12. Furthermore, the appeal property lies in an area where I would envisage people are employed in agriculture. Therefore, it is reasonable to expect a local demand for agricultural workers dwellings, especially in the absence of an appropriate marketing campaign that shows otherwise. Accordingly, the disputed condition is necessary to ensure the appeal property continues to meet a local need for agricultural workers accommodation.
13. The certificate of lawfulness determines that a breach of the disputed condition was lawful on 17 June 2015. However, this determination only relates to the situation on the specified date. Since then, New House has been left empty from the time the former occupier died until the current day. The appellant accepts that this period of vacancy may constitute a cessation of the breach of the disputed condition. If so, any new breach of the condition would now be unlawful and so it is unlikely that non-compliant occupation would occur.
14. In light of the particular circumstances of this case and the appellant's comments, any fallback position in terms of occupation of New House that relies on the presence of the certificate of lawfulness attracts limited weight in my considerations. As such, I consider the disputed condition is enforceable, despite the certificate of lawfulness. The specific circumstances with this current appeal are not replicated in any of the other appeal decisions referred to by the appellant. Therefore, they fail to influence my overall conclusion.

Conclusion

15. The disputed condition is necessary as New House is in a location that is normally inappropriate for residences and to ensure it accords with development plan policies on rural workers dwellings. Also, insufficient evidence has been provided to show the dwelling is no longer needed to serve the needs of agricultural or forestry workers employed in the locality. In these regards, I conclude the development without the disputed condition would be contrary to CS policies SP1 and CP1 and SADMP policy H1a. The certificate of lawfulness does not result in the disputed condition being unenforceable. The condition is therefore necessary, reasonable and enforceable. As such, I conclude the appeal should fail.

Jonathan Edwards

INSPECTOR