
Appeal Decision

Site visit made on 1 June 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/E2734/Q/23/3315914

Springfield Grange, Old Church Lane, Pateley Bridge HG3 5LY

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Mrs J Hannam against the decision of Harrogate Borough Council.
 - The development to which the planning obligation relates is an outline application for an agricultural workers dwelling at Part OS Field no. 3069, Old Church Lane, Pateley Bridge.
 - The planning obligation, dated 9 December 1994, was made between the Council of the Borough of Harrogate and Dennis Hannam.
 - The application Ref: 21/05290/S106, dated 7 December 2021, was refused by notice dated 3 August 2022.
 - The application sought to have the planning obligation discharged.
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Decision

1. The appeal is allowed. The planning obligation, dated 9 December 1994, made between the Council of the Borough of Harrogate and Dennis Hannam, no longer serves a useful purpose and is discharged.

Main Issue

2. The main issue is whether the existing planning obligation should continue to have effect without modification, or whether the obligation no longer serves a useful purpose and so should be discharged, with particular regard to the need to link the agricultural dwelling, buildings and agricultural land.

Reasons

Background

3. Springfield Grange gained planning permission¹ as an agricultural workers dwelling. Adjacent to the property is an area of land of a size of approximately 14.6 hectares (ha). It is predominantly in use as grazing land and contains agricultural-like buildings and a yard area which are accessed via a track from Springfield Grange. The property, whilst lying in countryside surroundings, is also found a short distance along Old Church Lane from the small town of Pateley Bridge.
4. On the opposite side of Old Church Lane and further to the south lies a further area of land of around 5 ha in total adjacent to St Marys Farm, much of which

¹ Council refs: 94/00552/OUT, Application No. 6.49.453.A.OA

has been left fallow, albeit some grazing is taking place. It is understood that much of this land has been sold off and is now under separate ownership. All of the land in question, including the dwelling and the buildings, lie in the Nidderdale Area of Outstanding Natural Beauty (AONB).

5. The planning permission for the agricultural workers dwelling was subject to a planning condition which restricted the occupancy for that purpose, including dependants or widow or widower of such a person, as is set out in the condition. It was also the subject of a Section 106 Agreement under the Town and Country Planning Act 1990 which sought to ensure that the land, the dwelling and the existing agricultural buildings at all times remained in the same ownership and not to be sold, let, assigned or otherwise disposed of separately.
6. In wishing to remove this obligation, the appellant contends there is no longer need for the agreement based on modern farming business practices and the inability under the obligation to sell or let the land or buildings, as well as the controls that are already afforded by the condition and the Council over any future applications.
7. On the other hand, the Council contends that the obligation is still necessary to serve the purpose of tying the property, buildings and land together and without this agreement, permission would not have been granted. The Council also points to that an assessment is to be made on the basis of need, rather than individual requirements, as well as any wider need, and cite a lack of evidence from the appellant in this regard. The Council is also of the view that allowing parts of the land to be sold off could lead to further pressure for rural workers dwellings within the AONB or the creation of an isolated dwelling in the countryside.

Agricultural Need

8. It is not in dispute between the main parties that tying the dwelling, buildings and land in this way is not reflective of current planning practices when dealing with an agricultural workers dwelling. With the planning condition on the permission, it would not be the case that the dwelling would become available for open occupancy without the obligation. Nor has it been suggested that if the land or buildings were to be used for non-agricultural purposes, that the Council would not get the opportunity as the local planning authority to consider such proposals.
9. In terms of the agricultural purpose of the dwelling, land and buildings, this would not change if the obligation was to be discharged. What would change is the linkage, but the agricultural purpose would be in any event maintained. If discharging the obligation would relinquish that agricultural purpose, I would have more sympathy with the Council's position. However, this would not arise simply by discharging the obligation.
10. The linkage relates to the circumstances and justification back in 1994 for the dwelling to meet an agricultural need. If the obligation is to serve a useful purpose it must though be reasonably considered on the basis of the present circumstances. It would be unreasonable for an assessment to be made on the basis of what was agreed nearly 30 years ago. As it stands and notwithstanding the sale of some of the land, other farming enterprises cannot utilise the land and buildings under the obligation if the appellant wishes to

reside in the dwelling, as is permitted under the terms of the planning condition. This would not be in the interests of agricultural need but could lead to a situation where effectively the agricultural use of the land is sterilised if the appellant has or intends to cease farming.

11. Furthermore, it would require such an enterprise to have a need which reflects the land, the dwelling and the buildings combined. This would in my view be likely to dissuade interest because of the restrictive nature of what would be on offer and thus inhibit the likelihood of the buildings and land being actively used for agricultural purposes. This is borne out by the amount of fallow land there is in the area of land to the south of Old Church Lane. Retaining the obligation would thus also serve no useful purpose as regards wider farming need in the locality by virtue of its strict terms.
12. I do not disagree with the Council that there is little evidence to back up assertions over the viability of the current holding. However, in this case, agricultural need is to be assessed in broader terms because of the restrictive nature of the obligation. It does not serve the wider interest of maintaining the agricultural use of the land if other farming enterprises are not permitted either to purchase or rent the land or buildings. The same applies as regards that such enterprises are also not permitted to buy or rent part of the land or buildings.
13. While the obligation does not prevent future planning applications or schemes coming forward, as long as the dwelling, buildings and land remain in the same use, if such applications were successful, this would seem to lessen the need for the obligation even further. This is because it would weaken the linkage again as it would represent a further change in circumstances since the obligation was first entered into.
14. Nor is there substantive evidence that the discharge of the obligation would lead to further pressure for rural workers dwellings in the AONB or the creation of an isolated dwelling in the countryside. As has been explained, the dwelling would remain as an agricultural workers dwelling and the appellant has also pointed out that the Council has a development plan policy for the consideration of such development on the basis of need, when such applications are made.
15. I have also been referred to an appeal decision on a different site and a Certificate of Lawful Use or Development² for the use of land as a domestic garden at St Marys Farm in the submissions, as well as the circumstances in which land was sold and boundary matters. I have though considered the totality of the evidence before me and so these issues do not change my overall conclusion. The matter before me concerns the obligation itself.
16. Discharging the obligation would not conflict with the statutory duty under Section 85 of the Countryside and Rights of Way Act (2000) to conserve and enhance the natural beauty of AONBs. Nor would there be a discernible impact on the Pateley Bridge Conservation Area as it extends in a narrow fashion up Old Church Lane and past the access to the dwelling.
17. The submissions have referred to the tests set out in the National Planning Policy Framework for conditions. However, the tests related to planning

² Council ref: 21/03664/CLEUD

obligations set out in paragraph 57 are of more relevance. While the obligation is directly related to the development, for the reasons that I have set out above, it is no longer necessary to make the development acceptable in planning terms and nor is it now fairly and reasonably related in scale and kind to the development. Hence, there is no justification for the existing obligation to continue.

Conclusion

18. The obligation no longer serves a useful purpose and so should be discharged. For the reasons given above and having regard to all matters raised, the appeal should be allowed.

Darren Hendley

INSPECTOR