



Appeal Decision

Site visit made on 13 April 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/X3540/W/22/3295780

Beulah, 47 Wangford Road, Reydon IP18 6PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Chris Durrant against the decision of East Suffolk Council.
 - The application Ref DC/21/3397/FUL, dated 15 July 2021, was approved on 30 September 2021 and planning permission was granted subject to conditions.
 - The development permitted is the proposed development of a single new build dwelling house.
 - The condition in dispute is No 9 which states that: The dwelling hereby permitted shall not be occupied otherwise than by a person as his or her only or Principal Home. For the avoidance of doubt the dwelling shall not be occupied as a second home or holiday letting accommodation. The Occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request to do so) such information as the Authority may reasonably require in order to determine whether this condition is being complied with.
 - The reason given for the condition is: To safeguard the sustainability of the settlements in the Reydon NP area, whose communities are being eroded through the amount of properties which are not occupied on a permanent basis and to ensure that the resulting accommodation is occupied by persons in compliance with policy RNP4 of the Reydon Neighbourhood Plan.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted in September 2021 for a single dwelling house. Condition 9 of that permission requires that the dwelling shall be occupied as an only or principal home in accordance with Policy RNP 4 of the Reydon Neighbourhood Plan 2021 made May 2021 (RNP). This policy seeks to ensure that housing is available to meet the needs of local people and to help address the unbalanced age profile of the community by restricting new dwellings to being occupied as a principal home.
3. The appellant considers that the condition is not necessary, reasonable or enforceable as required by paragraph 56 of the National Planning Policy Framework (the Framework) and seeks the removal of the condition. Accordingly, the main issue is whether the condition is necessary, reasonable and enforceable in the interests of ensuring the property is only occupied as a principal home.

Reasons

4. RNP Policy RNP4 was considered through an independent examination process and found to be sound. It is part of an up-to-date development plan, and paragraph 11 of the Framework confirms the statutory requirement that decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. It is not for this appeal to assess or reassess the evidence that was used to justify the policy.
5. The approved dwelling was at an advanced stage of construction at the time of my site visit. This dispels the appellants contention that the imposition of the condition means that the development will 'likely not be built'. Similarly, no substantive evidence has been presented to demonstrate that the condition has rendered the development unviable. Importantly, the condition does not restrict the sale of the dwelling to persons with a local connection as that is not sought by the policy.
6. RNP Policy RNP 4 is intended to apply to new market housing regardless of the scale of the development. Whilst the development economics of a single dwelling may be different to a large-scale housing development such as that elsewhere in Reydon, where a similar condition has been imposed, in the absence of any evidence as to the viability of this development, this would not justify removing the condition. Equally, there is no substantive evidence before me that the policy has prevented development from being brought forward in Reydon.
7. RNP Policy RNP 4 does not apply to affordable housing. As such, there will be a clear distinction between affordable housing and principal residence stock which will be market dwellings upon which a relevant condition has been imposed.
8. It is not unusual for policies within a development plan to have competing aspirations, and for those aspirations to be balanced through the application process. There is no evidence that the main purpose of RNP Policy RNP 4 is to ensure first time buyers are given the opportunity to purchase properties, or that it should be only applied selectively.
9. The articles submitted by the appellant set out that policies such as RNP Policy RNP 4 can give rise to unintended consequences, with respect to house prices, tourism and its related employment. However, there is no substantive evidence before me that these unintended consequences have arisen since this approach began to be taken in England after 2016. While I acknowledge the references in the RNP to St Ives and that development pressures may be similar across different areas, there are location specific factors which affect house prices and development decisions. These location specific factors are likely to vary again in other countries with housing markets that may operate differently to that in England. Policy RNP 4 has been examined and found sound and it will be for the Council in its monitoring of the development plan to establish the longer term impact of policies such as RNP 4.
10. I see no reason why this condition would not be enforceable. Occupancy restrictions are an established mechanism in the planning system, and there is no reason this condition should be treated differently. RNP Policy RNP 4 provides examples of the types of evidence that could be used to demonstrate that a dwelling was in use as an only or principal home. I accept the appellant's

point that taken in isolation, some of those items listed would not be determinative as to whether a dwelling was in use as an only or principal home. However, a number of those items in combination would allow the Council, in due course, to reasonably ascertain how the dwelling is being occupied.

11. For the above reasons the retention of the condition is required to comply with Policy RNP 4 of the RNP and therefore meets the test required by paragraph 56 of the Framework in that it is necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

Other Matters

12. A number of matters were raised during the original consideration of the application that were addressed at that time. However these do not relate to, or impact upon, the matter before me in considering whether the occupancy condition should or should not be retained.
13. The most appropriate mechanism for enforcement would be a matter for the Council were that situation to arise. Enforcement of this condition, which would be the case if the dwelling were not being occupied as a principal residence, would be less 'draconian' than enforcement against holiday properties being occupied as principal residences. The potential for appeals and legal challenges is an integral part of a fair and just planning system.
14. A contribution was secured at the time permission was granted in accordance with the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy to mitigate the likely significant effects of the development in combination with other development on the integrity of habitats sites. As I am not amending the permission, it is not necessary for me to consider this matter further.

Conclusion

15. I conclude that condition 9 is necessary, reasonable and enforceable in the interests of ensuring the property is occupied only as a principal home. For the reasons given above and having regard to all other matters raised, the appeal should therefore be dismissed and condition 9 retained.

J Downs

INSPECTOR