



Appeal Decision

Site visit made on 22 May 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/P2365/W/22/3312791

104 Renacres Lane, Halsall, Lancashire L39 8SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Dennis Olverson against West Lancashire Borough Council.
 - The application Ref 2022/0796/FUL is dated 18 July 2022.
 - The application sought planning permission for a full application for the erection of an agricultural workers bungalow with garage without complying with a condition attached to planning permission Ref 8/80/1354, dated 6 March 1981.
 - The condition in dispute is No 2 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in agriculture as defined in Section 290 (1) of the Town and Country Planning Act, 1971, or in forestry (including any dependants of such a person residing with him) or a widow or widower of such a person, or a person last employed before retirement on the holding of which the dwelling hereby approved forms part.
 - The reason given for the condition is: The site lies within an area where the Local Planning Authority are only prepared to permit the erection of a dwelling because of special agricultural circumstances.
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Decision

1. The appeal is allowed and planning permission is granted for a full application for the erection of an agricultural workers bungalow with garage at 104 Renacres Lane, Halsall, Lancashire, L39 8SF in accordance with the application Ref 2022/0796/FUL, dated 18 July 2022, without complying with condition No 2 set out in planning permission Ref 8/80/1354, granted on 6 March 1981 by West Lancashire Borough Council, but otherwise subject to the following conditions:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The garage shall be used for the accommodation of private vehicles only and no trade or business or storage use shall be carried on therefrom.
 - 3) The development hereby approved shall be carried out in accordance with the details shown on the amended letters dated 18.12.80 and 15.1.81 received by the Local Planning Authority on 22.12.80 and 16.1.81 respectively unless prior permission to vary these details has been granted in writing by the Local Planning Authority.

Preliminary Matters

2. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused the application as they consider that a condition restricting the occupancy of the dwelling is reasonable and necessary given its specific location.

Main Issue

3. The main issue is whether a condition restricting the occupancy of the dwelling is necessary and reasonable.

Reasons

4. 104 Renacres Lane comprises a detached bungalow approved under planning permission Ref 8/80/1354 which was subject to a restrictive occupancy condition. The dwelling is located in the Green Belt, and in such locations, development is strictly controlled. The Council highlight that the planning permission was granted as an exception to normal housing policy. They state that planning permission would not have been granted if it had not been for the agricultural occupancy requirement. There is no relevant policy or advice within the Council's Local Plan 2012-2027 Development Plan Document (2013).
5. The appellant sets out that the dwelling does not form part of an agricultural holding and has provided evidence to demonstrate that the agricultural land belonging to the holding was sold in 2007. Thus, they consider that condition 2 is no longer reasonable, necessary or enforceable. Whether the condition has been breached for over ten years is not for me to determine in this appeal and would be for the appellant to demonstrate through other mechanisms. As such, the appeal has been determined on the basis of what has been applied for.
6. I acknowledge that the dwelling was constructed over 40 years ago and has a spatial and visual impact on the openness of the Green Belt. A change in occupancy from an agricultural to a non-agricultural worker would not be a material change of use or an act of development. Accordingly, the question of inappropriateness is not relevant. Having said that, the reason the condition was imposed was because the site is located within the Green Belt where the Council was prepared to permit the erection of a dwelling only because of special agricultural need.
7. Although the condition is a restrictive occupancy condition it does nevertheless allow for the occupation of the dwelling by a range of people. The latter part of the condition links the dwelling and its occupation to the agricultural holding in that it states that the dwelling could be occupied by a person last employed before retirement on the holding of which the dwelling approved forms part. However, when the condition is read as a whole, the condition does not restrict the occupation of the dwelling to the holding but instead links the occupation of the dwelling to the locality. Therefore, the dwelling could be occupied by someone solely or mainly employed in the locality in agriculture or in forestry (including any dependants) or a widow or widower of such a person.
8. My attention has been drawn to other properties which have had agricultural conditions removed to highlight the domestication of residential properties in the area formerly associated with agriculture¹. I also understand Nos 108, 110

¹ 2020/0963/FUL and 2020/0347/FUL

and 112 Renacres Lane were farm buildings converted to dwellings. The appellant states that these examples demonstrate a longer-term pattern of domestication of agricultural property in the immediate area and confirmation that the local population are not economically dependent on agriculture. Limited information has been provided in relation to those cases and they do not provide robust evidence to demonstrate that there is an oversupply of agricultural workers dwellings in the locality.

9. No robust evidence has been provided to demonstrate that there is an oversupply of agricultural workers dwellings in the locality. I have not been informed about any surplus of agricultural or forestry dwellings in the locality. It appears that no marketing has been undertaken to demonstrate that the dwelling is no longer needed for agricultural or forestry reasons. Consequently, insufficient detailed and conclusive evidence has been provided to demonstrate that there is no existing or foreseeable future demand for the dwelling with an attached occupancy condition.
10. For these reasons, condition 2 continues to serve a useful planning purpose and the removal of the condition would result in an unwarranted dwelling in the Green Belt. The need for marketing and assessment of the supply of dwellings for agricultural/ forestry workers does not stretch the scope of the condition imposed beyond its original purpose, as asserted by the appellant, given that the dwelling could be occupied by someone solely or mainly employed in the locality in agriculture or in forestry.
11. A local resident has suggested that the appellant owns and maintains an area of land adjacent to 104 Renacres Lane. However, the appellant states that Title Register LAN907684 relates to land within the curtilage of 104 Renacres Lane and Title register LAN69265 is owned by the appellant but is maintained by a tenant. This consideration does not alter my findings above.
12. The appellant has drawn my attention to condition 3 which they consider indicates that permission was granted for the dwelling to be occupied as a private place of residence. Condition 3 relates to only the use of the garage and condition 2 relates to the occupation of the dwelling. I do not agree with the appellant's assertion that the Council's suggested condition would be at odds with condition 3 or that condition 3 confirms that the approved dwelling is wholly domestic and residential without any associated commercial function.
13. To conclude, insufficient evidence has been put forward to demonstrate that the dwelling is no longer required for an agricultural or forestry worker in the locality and no marketing has been undertaken to indicate whether or not there is a need for the dwelling for qualifying persons. Consequently, having regard to the reasons for imposing the condition, the National Planning Policy Framework and the site's location in the Green Belt, a condition restricting the occupancy of the dwelling remains reasonable and necessary.

Conditions

14. Section 73 sets out that if local planning authorities decide that permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant permission accordingly. Planning Practice Guidance makes clear that decision notices for the grant of planning permission

under Section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.

15. In this case I have found that a condition restricting the occupancy of the dwelling is reasonable and it is necessary. However, condition 2 is ambiguous and in the interests of clarity and in accordance with the provisions of Section 73 of the Act, I have replaced the condition subject of the appeal with a modified condition that meets the tests set out in paragraph 56 of the National Planning Policy Framework. Based on the evidence submitted, it is not necessary or reasonable to restrict the occupancy of the dwelling to a person last employed before retirement on the holding of which the dwelling approved forms part as the dwelling could be occupied by someone solely or mainly employed in the locality in agriculture or in forestry. The wording of the condition slightly differs to that suggested by the Council, but the essence of the condition is unchanged.
16. As the dwelling has been built it is not necessary to impose a time limit condition. I have imposed all the other conditions as they reflect those listed on the decision notice of 8/80/1354.

Conclusion

17. For the reasons set out above, I have found that a condition restricting the occupancy of the dwelling is reasonable and necessary. The disputed condition is retained but in a modified form. Consequently, although I have not found in the appellant's favour in respect of the substantive case, the effect of modifying condition 2 is to allow the appeal and grant planning permission on this basis.

L Wilson

INSPECTOR