



Appeal Decision

Hearing held on 11 October 2023

Site visit made on 11 October 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/C1625/W/23/3317728

White House, Stroud Road, Whaddon, Gloucester, Gloucestershire GL4 0UB

- 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 Mr C and Mrs K Prosser against the decision of Stroud District Council.
 - The application Ref S.22/1977/VAR, dated 7 September 2022, was refused by notice dated 17 November 2022.
 - The application sought planning permission for an outline application for the erection of a bungalow to replace existing dwelling; mains water supply; septic tank drainage without complying with a condition attached to planning permission Ref G.4966, dated 19 May 1967.
 - The condition in dispute is (c) which states that: The occupation of the dwelling shall be limited to persons employed or last employed locally in agriculture as defined in Section 221 of the Town and Country Planning Act, 1962, or forestry, and the dependents of such persons.
 - The reason given for the condition is: The site is not in an area intended for general development. Permission is granted to the present proposal solely because the dwelling is required to house a person or persons employed in agriculture or forestry.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for the erection of a bungalow to replace existing dwelling; mains water supply; septic tank drainage at White House, Stroud Road, Whaddon, Gloucester, Gloucestershire GL4 0UB in accordance with the application Ref S.22/1977/VAR, dated 7 September 2022, without compliance with the conditions previously imposed on the planning permission Ref G.4966 dated 19 May 1967.

Background and Main Issue

2. The original permission granted outline planning consent for a replacement dwelling. A planning condition was attached to restrict the occupancy of the replacement dwelling to a person employed, or last employed, in agriculture or forestry. The appeal is seeking the removal of this condition to allow White House to be occupied as a residential dwelling by any person.
3. Mr and Mrs Brunt (Mrs Prosser's grandparents) had farmed Pound Farm. Before moving to White House, various unsuccessful applications and appeals were submitted by Mr Brunt between 1964 and 1966. These sought a new dwelling on an adjacent site, and no agricultural need was advanced. The appellants assert that when seeking to replace the original White House dwelling, Mr Brunt

had no agricultural need for it and no agricultural need was advanced to justify the dwelling as he was retired by this point. The unsuccessful applications and appeals would also suggest that Mr Brunt had no agricultural need for a new dwelling.

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

Reasons

5. White House is a detached dwelling with 8 acres of land which is rented out to Pound Farm under a formal rental agreement. White House is situated outside of a settlement boundary and therefore is located within the open countryside for planning policy purposes.
6. Given the age of the original permission, there is limited information relating to the application and justification for the condition. However, the Council has provided a letter between the Local Planning Authority and County Council which states that the dwelling can be justified in the long term public agricultural interest. It is not clear why this was the case particularly as a letter from Mr Brunt sets out that he works voluntary on Pound Farm. The Council confirmed at the Hearing that a person working voluntary on a farm would not justify a new dwelling in the countryside. Furthermore, crucially, the original White House dwelling was not subject to an agricultural occupancy condition, and the replacement dwelling was situated in essentially the same footprint as the original bungalow.
7. The submitted evidence suggests that the replacement dwelling has been occupied by someone last employed in agriculture. Having said that, if White House has never been occupied by a person or persons employed in agriculture or forestry, then that would mean that neither the dwelling or the condition have met the need or fulfilled the reason given for it. On the other hand, even if Mr Brunt had not retired at the time the original permission was granted (which on the basis of the information before me seems unlikely), White House has not contributed to the supply of agricultural workers dwellings for a considerable length of time.
8. My attention has been drawn to other planning applications¹ and appeal decisions². I have limited information regarding those cases but there are some similarities between them and the case before me. For example, the Chestal Farm case is also located within Stroud District Council area and the Coombe Hall Farm case relates to a replacement dwelling. In the Coombe Hall Farm case, the Council found that no agricultural justification was sought and therefore the agricultural occupancy condition was imposed without a definite planning reason. I have had regard to the decisions, and the evidence provided to support the applications, however the circumstances of the cases, including context of the site, planning history and local planning policies, are not directly comparable. In any case, I have considered the appeal proposal on the basis of the evidence before me.
9. It is not clear whether there was planning policy relating to replacement dwellings in the countryside when the original planning application was

¹ S.22/1156/FUL, S.15/1547/VAR

² APP/C1625/W/22/3291163, APP/C1625/W/17/3172529, APP/D3315/C/14/2218684 & 2218685, APP/E2734/W/19/3234758 & 3234759 and APP/Z3825/W/17/3175902

determined. The appellants have drawn my attention to planning permissions³, within the same Parish and considered at a similar time to the replacement dwelling at White House, which granted consent for replacement dwellings without an agricultural occupancy condition. I have limited information regarding those cases, but it would suggest that replacement dwellings, in the countryside, were granted without restrictive planning conditions.

10. In terms of the present development plan, Policy CP15 of the Stroud District Local Plan (2015) (LP) seeks to protect the countryside and sets out a list of exceptions for proposals outside identified settlement development limits. One such exception is the proposal is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the District. A further exception is a replacement dwelling. Policy HC5 of the LP also relates to replacement dwellings outside defined settlement limits. The main parties agree that an application for a replacement dwelling could be acceptable today subject to it meeting the criteria outlined in Policy HC5.
11. I have had regard to the legal judgement⁴ which related to a bungalow subject to an agricultural occupancy condition. An application was made to remove the condition which was refused by the Council but allowed by an Inspector. In that case, it was found that the Inspector was entitled to take account of the probability that the condition would not have been imposed had there been a contemporary application for planning permission because the site now fell within the settlement limits of the village.
12. White House is not located within the settlement limits of the village so cannot be directly compared to that judgement. Nonetheless, it is agreed between the main parties that, if a replacement dwelling was granted permission today and the replaced dwelling did not have an agricultural tie already, it is unlikely that an agricultural tie condition would be added as it would comply with Policies CP15 and HC5 of the LP. In addition, I understand though that if an application to demolish White House and replace it with a new dwelling was submitted today, the Council would still carry over the agricultural tie unless substantial justification was provided.
13. The Council does not have an assessment to establish whether there is a need or demand for rural occupational dwellings. There are no development plan policies which explicitly deal with the removal of agricultural occupancy conditions or require a marketing exercise or require support from the National Farmers Union (NFU) or similar organisations. The appellants confirmed at the Hearing that they have not carried out a marketing exercise as they intend to live at White House, and they have been contacted by developers which could result in an inflated price. The appellants are not members of the NFU and the NFU is not a statutory consultee. Thus, whilst such evidence can be useful in determining whether there is a local need/demand for an agricultural worker's dwelling in the local area, it is not an essential requirement of planning policy.
14. The appellants have provided a local data analysis which identifies that there have not been any applications for workers dwellings in the immediate local area for the past 10 years. It also provides evidence to demonstrate that there is a high supply of properties for sale within the locality, including a good supply within affordable price parameters.

³ G.3391

⁴ Hambleton v SSE & Others [1994]

15. Furthermore, the analysis sets out that the agricultural land use within the immediate vicinity of White House is mainly arable. Arable farming rarely gives rise to an essential need for a full-time worker to live within sight and sound of their place of agricultural employment. The majority of the nearby agricultural land is farmed by Pound Farm and Court Farm. Both these farms have associated agricultural workers dwellings. The findings of the local data analysis have not been disputed.
16. It is unlikely that White House's land could viably be used for other rural enterprises that may not require large areas of land and would require a rural worker to live at or near their place of work in the future. This is due to constraints, such as the access to White House is across common land, and the small size of the land.
17. The removal of the agricultural tie would not cause harm to the character or visual appearance of the area, and that is agreed by the main parties. The Council consider that it would be harmful because it would result in an isolated dwelling in the countryside, but they confirmed at the Hearing that the dwelling is not remote.
18. The context of the site has changed since the original application was determined. A considerable amount of nearby land has been safeguarded within the submitted Stroud Local Plan for Gloucester's Future Housing Growth. However, the emerging plan is at a very early stage, and I do not give weight to this.
19. Immediately surrounding the dwelling are primarily open, agricultural fields but having regard to the Braintree High Court judgement⁵, White House cannot reasonably be described as isolated. This is due to the extent of built development nearby towards the northwest and south. The site is within walking distance to schools as well as a farm shop. In addition, there are bus stops which provide services to Gloucester. As such, local services and amenities are within walking distance or accessible by public transport, nevertheless the dwelling is situated within an area where planning policy restricts development.
20. To summarise, current development plan policies seek to prevent new housing outside of defined settlement development limits. Having said that, the original application was for a replacement dwelling and not a new dwelling in the countryside. White House is not isolated, and it is likely that the condition would not have been imposed had there been a contemporary application. The small area of land associated with White House is constrained. These factors, along with the findings of the local data analysis and the circumstances of Mr Brunt, provide sufficient evidence that there is not a need for an agricultural dwelling in relation to White House or in the wider area either now or in the longer term and to justify the removal of condition (c). Removing the condition would not set a precedent given the unique circumstances of the case, and each application/ appeal must be considered on its own merits.
21. For the reasons given above, a condition restricting the occupancy of the dwelling is not reasonable or necessary in the interest of Policy CP15 of the LP. This seeks, amongst other things, to prevent the proliferation of development in areas away from existing settlement development limits to promote

⁵ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

sustainable patterns of development and avoid the coalescence of towns and villages. Consequently, the proposal would accord with the overall aims of Policy CP15 of the LP, and I conclude that condition (c) should be removed.

Conditions

22. Planning Practice Guidance⁶ 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. In addition to considering the disputed condition, Section 73 provides the power to attach new conditions, to not attach conditions which were previously imposed or to attach modified versions of them.
23. The original decision notice includes two other conditions, relating to reserved matters and the standard time limit condition. These conditions do not continue to have effect as the replacement dwelling has been built. I concur with the main parties that it is not necessary to re-impose these conditions or to attach new/modified conditions.

Conclusion

24. For the reasons given above, I conclude that the appeal should succeed, and the planning permission should be varied by deleting the disputed condition. I have therefore granted a new permission, removing the disputed and unnecessary conditions.

L Wilson

INSPECTOR

⁶ Paragraph: 040 Reference ID: 21a-040-20190723

APPEARANCES

FOR THE APPELLANT:

Mr Colin Prosser	Appellant
Mrs Kay Prosser	Appellant
Ms Caroline Parsonson	Parsonson Planning Consultancy
Mr Mike Oakley	Parsonson Planning Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Mr Tom Fearn	Planning Officer, Stroud District Council
Ms Gemma Davis	Principal Planning Officer, Stroud District Council