



Appeal Decision

Hearing held on 27 February 2024

Site visit made on 27 February 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/X1545/W/23/3328131

Wycke View Farm, Main Road, Mundon, Essex CM9 6PB

- 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 & Mrs Lynne Attfield against the decision of Maldon District Council.
 - The application Ref VAR/MAL/23/00342, dated 25 March 2023, was refused by notice dated 1 June 2023.
 - The application sought planning permission for the erection of dwelling for agricultural worker without complying with a condition attached to planning permission Ref MAR/253/67, dated 25 July 1967.
 - The condition in dispute is No 2 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(1) of the Town and Country Planning Act 1962 or in forestry, and the dependents of such persons.'*
 - The reason given for the condition is: *'The local planning authority would not be prepared to permit the erection of a dwelling house on this site unconnected with the use of the land or adjoining land for agricultural purposes.'*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling for agricultural worker at Wycke View Farm, Main Road, Mundon, Essex CM9 6PB in accordance with the application Ref VAR/MAL/23/00342 dated 25 March 2023, without compliance with condition number 2 previously imposed on the planning permission Ref MAR/253/67 dated 25 July 1967, and subject to the following condition:
 - 1) The recessed site access and vehicle turning space shall be retained for so long as the use continues.

Applications for costs

2. An application for costs was made by Mr & Mrs Lynne Attfield against Maldon District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The Council, in its reason for refusal, had set out that it could not determine the application under Section 73 of the Town and Country Planning Act 1990. The Council has subsequently accepted in its appeal statement, and at the

Hearing, that it can. However, the Council considers the proposed development to be contrary to policy.

4. Since the appeal was lodged, a revised version of the National Planning Policy Framework was published (19 December 2023). This does not materially change the planning policy context in respect of the main issue.

Main Issue

5. Taking into account the preliminary matters above, the main issue is whether condition 2 remains necessary, with particular regard to the need for rural workers dwellings in the local area.

Reasons

Background

6. The appeal property comprises a detached dwelling within a large open plot, in part planted to vine. The property was originally permitted in connection with the nearby enterprise of Sparrow Wycke Farm.
7. At the Hearing, the appellants explained that the appeal property was historically occupied by the retired farmer, and his wife, of Sparrow Wycke Farm. However, the current owners (the appellants) bought the property around 7 years ago. The current owners are not connected with that, or any, agricultural enterprise. Accordingly, the link between the property and that enterprise has been severed.

Necessity

8. Policy H7 of the Maldon District Local Development Plan 2014-2029 (LDP, 2017) concerns agricultural and essential workers accommodation. It sets out that permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise will only be permitted subject to certain criteria. The preamble to the policy sets out that the Council's spatial approach is to locate new dwellings within the development boundaries of existing built up areas. The site lies within the defined settlement boundary of Mundon. This boundary was extended in 2017 to include the appeal property.
9. This policy does not provide a steer as to how proposals to remove previously imposed occupancy conditions, or proposals which would result in the loss of agricultural workers accommodation, should be dealt with.
10. Nonetheless, the parties agreed at the Hearing that it would normally be the case that evidence is provided to demonstrate a lack of need, such as attempts to market the property to rural workers. It was confirmed by the Council that this approach is not set out in any policy or guidance documents.
11. Evidence that the property was marketed in 2022 has been provided by the Council. The property was listed asking for offers over £1,400,000. There is no reference within the sales particulars of an agricultural tie, however the appellant confirmed at the Hearing that the appointed agent made prospective buyers aware of this condition at the time of enquiry. Although I have no evidence before me in respect of the number of hits that online listing had, or of any enquiries or offers received, the appellant confirmed at the Hearing that there was no interest in the property at the time.

12. A further, more recent, valuation by a different agent has also been provided. This puts the sale price of the property, if it were to be marketed, as £1,750,000 without the rural workers condition in place, or £1,400,000 if the condition remained.
13. A selection of properties for sale in the wider area (3 mile radius) has also been provided by the appellant. These examples are typically comparable in size to the appeal property, providing 4 bedroom accommodation. These are all of a lower value than the appeal dwelling. This is highly likely due to the appeal property being sold together with 12 acres of adjoining land. Nevertheless, based on this evidence, it appears that a significant number of alternative and similarly sized properties are available in the surrounding area that could provide more affordable rural workers accommodation if the need arose.
14. The appeal property's proximity to larger vineyards in the surrounding area has been raised by the Council. However, there is no evidence before me to demonstrate that there is any demand for any agricultural or rural workers dwellings to support the functioning of those enterprises, either now or in the future, nor that if the appeal dwelling were severed from the adjacent vineyard there would be a future need for a further agricultural worker's dwelling nearby. Moreover, as I witnessed at the site visit, vines are dormant in the winter months and so that requirement would not, in any case, be year-round.
15. The Council agreed at the Hearing that if a new hypothetical dwelling were to be proposed at the same site today, it would likely be acceptable in principle given the site's position within the defined settlement boundary of Mundon. Although there are relatively limited services and facilities within the village, it provides a bus service to nearby larger settlements including Maldon. From that perspective, a new market dwelling here would meet the relevant provisions of LDP Policy S8. That some of the land associated with the appeal property falls outside the development boundary does not change this.
16. The property, as set out earlier, is now severed from the original enterprise and is not occupied by agricultural or rural workers, or anyone who would meet the description set out in condition 2. Moreover, there is no substantive evidence before me of a general need for rural workers dwellings in the area, including in the form of data or any recent planning applications for such uses, nor that the operation of a vineyard would require such accommodation. In addition, the site's location within the defined settlement boundary of Mundon would be appropriate for a market dwelling, should one be proposed today. Therefore, I conclude that the condition is no longer necessary, and the scheme would not conflict with the relevant provisions of LDP Policy H7. This policy, in summary, seeks to limit the development of housing in the countryside unless it meets certain criteria.

Conditions

17. By allowing this appeal, a new planning permission is created. Planning Practice Guidance advises that, for clarity, decision notices for the grant of planning permission under Section 73 should restate the conditions imposed on earlier permissions that continue to have effect.
18. The parties have suggested that conditions 1 and 5 relate to pre-commencement matters and are not relevant. Given that the dwelling is

complete and occupied, I agree that these matters are no longer relevant and do not need to be reimposed.

19. Conditions 3 and 4 relate to highway matters. The Council, at the Hearing, considered that these should be retained in the interests of highway safety. The appellant had no objection to this. I have therefore imposed a condition seeking the retention of the recessed access and turning area for so long as the use remains.

Other Matters

20. At the Hearing, the Council drew my attention to a recently refused certificate of lawful use at the same site¹. This is currently subject to appeal. As I have only limited details of that scheme before me it has had no bearing on my decision.

Conclusion

21. The disputed condition no longer meets the test of necessity. The resulting development accords with the development plan taken as a whole. I therefore conclude that the appeal should be allowed.

A Price

INSPECTOR

¹ 22/00970/LDE

APPEARANCES

FOR THE APPELLANT:

Gareth Stent	Agent
Colin Attfield	Appellant
Carolynne Attfield	Appellant

FOR THE COUNCIL:

Hayley Sadler	Maldon District Council
Derek Lawrence	Maldon District Council