



Appeal Decision

Hearing held on 8 May 2024

Site visit made on 8 May 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/J0405/W/23/3327876

Poplars Farm, South End, Preston Bissett, Buckinghamshire MK18 4LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Gulliver against the decision of Buckinghamshire Council.
 - The application Ref is 23/01381/VRC.
 - The application sought planning permission for erection of dwelling with garage without complying with a condition attached to planning permission Ref BR/585/67, dated 29 September 1967.
 - The condition in dispute is No 3 which states that: *Permission is granted for the erection and use of a farm dwelling and its use for housing agricultural workers. The building shall not be occupied except by a person who is primarily employed as an agricultural worker on a holding which includes not less than 39 acres of the agricultural land edged in red on the plan annexed hereto.*
 - The reason given for the condition is: *The site of the proposed dwelling is shown in the County Development Plan as falling within an area not marked by any notation where it is intended that the existing use, viz. for agriculture shall continue for the most part undisturbed and the erection of the house is only permitted to meet the needs of agriculture.*
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Decision

1. The appeal is allowed and planning permission is granted for erection of dwelling with garage at Poplars Farm, South End, Preston Bissett, Buckinghamshire MK18 4LR in accordance with the application Ref 23/01381/VRC, without compliance with condition numbers 1, 2 and 3 previously imposed on planning permission Ref BR/585/67 dated 29 September 1967, subject to the following condition:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working in the locality in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990), or a widow or widower of such a person and to any resident dependants.

Preliminary Matters

2. Following the submission of this appeal, the Council have approved planning permission¹ under section 73 of the Town and Country Planning Act 1990 (S.73) in relation to the same development as previously permitted within

¹ 23/02341/VRC

planning permission BR/585/67 (the original permission) subject to an amended occupancy condition. Permission granted under S.73 takes effect as a new, standalone permission to carry out the same development as previously permitted subject to new or amended conditions and the original permission remains extant and unaltered (along with the conditions attached to it). As such, this appeal proceeds on the basis of the wording of condition 3 associated with the original permission, and I have assessed it as such.

Main Issue

3. The main issue is whether the condition remains necessary or reasonable, having regard to the development plan and the need for rural workers dwellings in the local area.

Reasons

4. The appeal site is located on the edge, but within the existing developed footprint of Preston Bisset, which is defined as a 'smaller village within the Vale of Aylesbury Local Plan (adopted 15th September 2021) (LP). At the Hearing, the appellant explained that the appeal property was granted planning permission in 1967 as an agricultural workers dwelling, and occupied by a cattle dealer who utilised an associated 39 acres as part of the enterprise. However, the associated agricultural land has been tenanted out since 1999.
5. LP Policy H3 sets out a clear steer on how proposals which would result in the loss of rural workers accommodation should be dealt with. The policy requires that a sustained attempt be made to advertise and market the dwelling at a price that reflects the occupancy condition, and that the dwelling no longer serves a need in connection with the holding, or there is no agricultural, forestry or rural worker occupational need elsewhere that it could reasonably service.
6. Although the preamble to LP Policy H3 does refer to isolated homes in the countryside, the policy does not restrict itself to the consideration of properties within the countryside in relation to the removal of existing occupancy conditions and the maintaining of agricultural workers dwellings for as long as a need exists. Therefore, despite being within the developed footprint of Preston Bisset, LP Policy H3 is directly applicable to the proposal.
7. Given the lack of any current agricultural enterprise at the appeal site and relatively small size of the associated agricultural land, I accept the wording of the existing occupancy condition in relation to specific land holding could restrict future interest in the holding. However, the appeal property, whilst on the edge of a village, is located adjacent agricultural land and in an area that I observed to be predominantly rural, with associated rural activities which could result in the need for rural workers in the locality.
8. Indeed, the Council have provided details of a number of planning applications seeking rural workers dwellings which indicate a demand for such dwellings, albeit district wide, and no substantive evidence to the contrary has been provided to me.
9. At the Hearing the appellant stated that they considered that the site as a whole would have a value of around £1million, and therefore be unsuitable for any agricultural workers. In this respect, details of a selection of properties for

sale in the area have also been provided by the appellant which, it is put to me, could provide more affordable rural workers accommodation if required.

10. Nevertheless, even if the value of the existing dwelling and land is such that it would be unaffordable to an average rural worker, it remains that no formal valuation or marketing of the appeal property has taken place. Consequently, despite anecdotal evidence, there is insufficient substantive evidence before me to demonstrate that there is no existing or foreseeable future demand for the dwelling and that it could not reasonably meet the needs of a rural worker in the locality.
11. The main parties agree that had the site been undeveloped, the principle of new residential development, unrestricted by an occupancy condition would accord with the provisions of LP Policy D4, and I see no reason to disagree. However, the appeal property is an existing dwelling with an occupancy condition whereas LP Policy D4 specifically relates to new housing development limiting the relevance of this policy to the proposal. Notwithstanding, the appellant asserts that the existing dwelling could be demolished, and a new dwelling built with no occupancy condition.
12. I was informed at the Hearing that no prior approval or other formal applications have been made to the Council for the demolition of the building or erection of a new dwelling. Furthermore, the appellant confirmed at the Hearing that there is no intention to demolish the existing dwelling. As such, even if there is a theoretical possibility that such a development could take place, on the evidence before me there is currently no real prospect of a fallback development. Consequently, I afford any such fallback position minimal weight.
13. Another appeal decision that is cited by the appellant differs from the current proposal in several ways. While that site is within a defined settlement boundary, the Inspector noted, contrary to the policy context of the appeal before me, that the development plan did not provide policies in relation to the removal of previously imposed occupancy conditions. Furthermore, marketing evidence was provided. This limits the equivalence of the other case to the current proposal.
14. To conclude, although the appeal property is within the developed footprint of Preston Bissett, it has not been demonstrated that there is no continuing need for agricultural workers accommodation in the locality that the dwelling could reasonably meet. As such an agricultural workers occupancy condition continues to be necessary and reasonable, having regard to the development plan and the need for rural workers dwellings in the area. The proposal would conflict with LP Policy H3 which, amongst other things, seeks to ensure occupancy conditions are only lifted where there is no agricultural worker occupational need elsewhere that it could reasonably service.

Conditions

15. The Planning Practice Guidance sets out that decision notices for the grant of planning permission under S.73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged.
16. In this case, although I have found that a condition restricting the occupancy of the dwelling is still necessary and reasonable, I am required under S.73 to

consider whether the condition is justified in the circumstances existing at the time of the determination of this appeal.

17. Condition No 3 pre-dates the development plan and the Framework. It is not entirely consistent with local and national planning policy in respect of tying occupation to a land holding as well as preventing occupation of the dwelling by a person last working in agriculture, or a widow or widower of such a person and any resident dependants. In accordance with the provisions of S.73 and having regard to the discussions at the Hearing, I will replace the condition subject of the appeal with a modified condition that meets the Framework tests.
18. Conditions Nos 1 and 2 imposed on the original planning permission relate to reserved matters, the details of which were subsequently approved. They are no longer relevant, and I have not imposed them on the planning permission.

Conclusion

19. For the reasons set out above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, outweigh this conflict. However, although I have not found in the appellant's favour in respect of the substantive case, the effect of modifying condition No 3 is to allow the appeal and grant planning permission on this basis.

S Harrington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gareth Stent Planning Consultant

Richard Gulliver Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Emma Mumby Senior Planning Officer

Anna Souter Planning Officer

DOCUMENTS submitted at the Hearing

- Statement of Common Ground.