



Appeal Decision

Site visit made on 1 July 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2024

Appeal Ref: APP/J3720/W/23/3335015

**Long Orchard Farm, Binton Road, Welford-On-Avon, Warwickshire
CV37 8PP**

- 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 73A 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 Chris Fox against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/00705/VARY.
 - The application sought planning permission for one dwelling without complying with a condition attached to planning permission Ref 80/01070/FUL, dated 31 December 1980.
 - The condition in dispute is No 4 which states that: The occupancy of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry (including the dependants of such person residing with him) or a widow or widower of such a person.
 - The reason given for the condition is: In the interests of farming and maintaining the land.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted in 1980 for the erection of an agricultural worker's dwelling. The dwelling and its associated neighbouring small-holding, for an agricultural market gardening enterprise, were originally operated as connected units. However, the agricultural uses are reported to have ceased in 2007. As it appears that the dwelling is not being occupied in accordance with the condition, I shall consider the appeal under section 73A, as a retrospective matter.
3. The submitted agricultural viability reports, by Reading Agricultural Consultants, identify that the site is not able to sustain a viable livestock enterprise. The small size of the farm-holding, the need for new agricultural buildings and the amount of flood mitigation required would require a high level of investment that it is stated that the holding would be unable to generate. This appears to be uncontested by the Council. However, the Council asserts that the reason for imposing the condition reflects its desire to provide housing for agricultural workers in support of the local farming community. Consequently, the Council places great importance in a robust marketing exercise to determine whether demand in the area remains for such a dwelling. I shall approach this appeal in a similar manner.

4. Taking the above points into consideration, the main issue is whether the condition remains reasonable and necessary.

Reasons

5. The appeal dwelling is a chalet style bungalow, raised above natural ground level, and set on a series of stilts and decking areas. The dwelling stands within a self-contained plot adjacent to Binton Road. It lies within the open countryside, for policy purposes, although it is close to other developed sites such as the Marina and Four Alls Public House. The dwelling was approved in 1980 to meet a residential need connected with the adjacent farm holding. It is located outside the settlement boundary where a proposal for a dwelling would normally conflict with the Council's spatial housing policies.
6. The village is a highly popular location having a good range of services available including public houses, a local shop and school and being close to Stratford-upon-Avon, commanding good property prices. The Appellant explains that the dwelling was marketed in November 2021 for £550,000. The submitted marketing reports¹, by Mr McGinn, explain that the asking price was the lowest price in the village over the past two years and represents the best value per square foot. Also, Mr McGinn explained that the market price represented a discount of 32% against the settlement average, representing the cheapest property in or around the settlement and being the best value.
7. In terms of marketing, the property was advertised on Rightmove and OnTheMarket since November 2021 and is still being advertised. Graphs showing activity around the websites demonstrates that the property has been viewed on-line around 30 times a day, during the first 120 days of advertising. Despite the site being close to a settlement in a highly popular location and the settlement commanding good property prices, the dwelling has received extremely limited interest from the market, consisting of only six telephone calls. It is understood that the occupation condition has been a significant factor in deterring interest.
8. However, it is possible that interest from compliant agricultural workers could be depressed due to a general difficulty in finding such dwellings on the open market and by a prohibitively high asking price. A mailshot was sent to potential purchasers, including local farmers, who have registered an interest in purchasing property in the Welford area. However, it is unclear how comprehensive such action would be at capturing interest from the local farming community. Accordingly, there is insufficient evidence to demonstrate that the property has been targeted towards the eligible farm workers through a proactive advertising campaign, that could have included the targeting of local farm businesses and advertising in local agricultural journals.
9. Furthermore, there is no assessment that considers the average income of an agricultural worker that might enable the Appellant to pitch the price at a level that would be affordable to such an individual. This would be particularly relevant to understand in an area where property prices are especially high and where a farm worker may struggle to afford an open market dwelling, even one discounted by 32%. Without targeted marketing, or a clear understanding of the affordability of the dwelling to an agricultural worker, it is perhaps unsurprising that the marketing has failed to find interest from the group of

¹ Marketing Reports, by Jeremy McGinn&Co, February, June and December 2023

individuals who would qualify for the property's occupation. As a result, it appears that the property has not been sufficiently discounted to appeal to agricultural workers and the discount may not fairly reflect the effect of the agricultural restriction. Therefore, the marketing undertaken has not been sufficiently robust to demonstrate that the dwelling is no longer required to support the agricultural industry.

10. The Appellant suggests that there is an insufficient quantity of agricultural land close to the dwelling for an agricultural worker to occupy the property. However, this assertion appears to be largely speculative and does not reflect the Council's view. Furthermore, there is no indication that the dwelling has been offered for rent, which may be another effective alternative avenue to attract farmworkers on a low income.
11. The Council identify that the property would come with no agricultural land which would limit local interest. However, the close association of agricultural land to an agriculturally tied dwelling is not generally necessary. Moreover, the Appellant has demonstrated that the adjacent smallholding is unsuitable to sustain agricultural activity in isolation due to a range of constraints. Also, the Council's reason for refusal relates to the dwelling for a worker in the area and not just the adjacent site. Therefore, the severance of the residential plot from the adjacent small-holding makes no material difference to the effectiveness of the marketing or occupation of the property by a compliant person.
12. The Council identifies a range of site-specific factors that should have been taken into account when setting the asking price. These include access rights to the farm holding, the type of construction of the dwelling, the out-of-centre location of the property, being within a flood zone and the absence of maintenance. However, the dwelling could be accessed directly from Binton Road. Also, whilst requiring some maintenance, the building appears to be weather-proof and habitable and its flood mitigation seems robust. As such, these additional factors would be unlikely to have a material bearing on the price of the property or interest gained.
13. Nonetheless, the marketing process has not targeted areas of the market that might be interested in acquiring the property and would qualify for occupation. Also, it is likely that the market price is too high for the target market. Therefore, the marketing process has not been sufficiently robust to demonstrate a sustained and determined effort to make the property attractive to an agricultural worker. Accordingly, the proposal has failed to demonstrate that the condition is no longer reasonable or necessary. Therefore, based on the submitted evidence, I am satisfied that the condition still serves a useful purpose and remains reasonable and necessary.

Other Matters

14. The Appellant's assessment of the agricultural holding's viability identifies that the site is not able to sustain a viable livestock enterprise. This finding would reduce the potential interest in the combined site from qualifying individuals who work in agricultural and associated activities. Nonetheless, the condition does not tie the dwelling and farm holding together and should not have a material effect on the occupation of the dwelling by an agricultural worker. As a result, I find that the viability assessment attracts limited weight in support of the proposal.

15. The Appellant has asserted that since the dwelling was approved in 1980 structural changes in the agricultural sector mean that labour requirements have changed. The trend has led to larger farms with a less labour-intensive industry, and new agricultural dwellings supporting extensive farm holdings. The submitted examples of dwellings subject to agricultural occupancy conditions illustrate this point at appendix H of the Appellant's Statement of Case. However, whilst this shows a general trend change, this does not demonstrate that unconnected dwellings with agricultural restrictions do not retain a place in the agricultural housing market.

Conclusion

16. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR