



Appeal Decision

Site visit made on 13 August 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/Q9495/Q/24/3339874

Sparket Mill Barn, Hutton John, Penrith, Cumberland CA11 0LZ

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) against a refusal to modify a planning obligation.
 - The appeal is made by Eileen Berends McLean against the decision of Lake District National Park Authority.
 - The development to which the planning obligation relates is the "conversion of a redundant agricultural building to single residential unit", under application reference 7/1993/3123.
 - The planning obligation, dated 17 March 1994 was made between the then Lake District Special Planning Board and Mr J A Heath
 - The application Ref 7/2023/3114, dated 12 July 2023, was refused by notice dated 26 September 2023.
 - The application sought to have the planning obligation modified to continue to require that the property be a "house of main residence but without the requirement to have lived/worked in Cumbria for the previous 3 years."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the planning obligation would continue to serve a useful purpose if modified as proposed.

Reasons

3. The appeal site is a three-to-four-bedroom dwellinghouse, subject to a planning obligation which restricts its occupation to a person employed, to be employed or last employed locally, or who has lived for the previous three years in the "area of the County Council of Cumbria".
4. Policy 15 of the Lake District National Park Local Plan 2020-2035, adopted May 2021 (the Local Plan) requires that new homes be secured in perpetuity for permanent occupation with eligibility restricted to a geography tailored to local circumstances. The Housing Supplementary Planning Document, How we use Policy 15: Housing in planning decisions, September 2023 (the SPD) gives greater detail to the policy and includes defined localities which are now much more tightly defined than the County-wide level set out in the obligation subject to this appeal.
5. Policy 15 seeks to take a strategic approach, making interventions in the housing market for the good of communities, in particular ensuring a high proportion of housing is secured in permanent occupation to meet local community needs.

6. This policy approach has plainly been a long-standing one in the area given the particular local pressures on housing, and mirrors that which led to the obligation being entered into in 1994. Coupled with the statutory duty in National Parks to seek to foster the economic and social well-being of local communities, that is the purpose which the obligation fulfils.
7. That this policy approach and aims are still relevant and still serve a useful purpose is plain from its inclusion in the relatively recently examined and adopted Local Plan. To my mind, that this policy approach has become stricter over time since the planning obligation was entered into serves to reinforce the importance of it and makes plain the useful purpose of the obligation.
8. I accept that the proposed modification would in part satisfy the requirements of Policy 15 and the SPD by maintaining the dwelling in permanent occupation, rather than allowing its use as a holiday home or let. However, removing the requirement to work, or have lived in the area for the previous three years would not satisfy the wider aim of the policy to meet local community need. Indeed, the evidence of the appellant, particularly the marketing comments, would suggest that the proposed modification would fail to do just that, result in permanent occupation, but likely by people from outside the area. This would plainly not satisfy the policy requirement for meeting local community needs. Were the obligation to be modified as proposed, it would not therefore serve its original purpose equally well.
9. I am sympathetic to the personal circumstances of the appellant, but there is no suggestion that they were unaware of the restriction relating to the property either when they purchased it, or when making alterations. Similarly, I am sympathetic to the changes in market conditions which have led to the increase in value of the dwelling, particularly relative to local incomes. However, the Local Plan is clear in its intention to secure in perpetuity homes to meet local community need, and the SPD acknowledges that this may alter the marketable price of a dwelling. Whilst it may be that the appellant is unable to realise an open-market value for the dwelling, that is a logical consequence of the dwelling not actually being available to the open-market, and it seems clear that that is the intention of the policy.
10. I note that the marketing information is somewhat limited, owing to the potentially chilling effect of the restriction, but do not consider that this is sufficient evidence to warrant setting aside a restriction with such a clear, well-established and long-standing reasoning behind it. Indeed, this perhaps establishes that the obligation is working as intended, supported by the consistent approach of the development plan in its various iterations since the obligation was entered into.
11. The obligation does therefore continue to serve a useful purpose, in ensuring that occupation of the dwelling is limited to those with a qualifying local connection, in order to deliver the aims of the Local Plan, particularly those set out in Policy 15.
12. On the basis of the evidence before me, I therefore find that the obligation is consistent with, and still supports the delivery of the Policy 15 aims, supported by the SPD, such that it continues to serve a useful purpose and should continue to have effect without modification. It would fail to serve that purpose equally well if subject to the modification proposed or was otherwise discharged.

13. As such, the proposed modification would conflict with Policy 15 of the Local Plan and the SPD.

Other Matters

14. The appellant has directed my attention to a similar situation at a property in the same Parish from 2017, where a local occupancy condition was removed in favour of a condition requiring that the dwelling be occupied only as a principal home. Whilst I have read the report for that application, I do not have the evidence which supported it, and on which the Council at that time made their decision. It is also distinct from the issue before me in that it was an application to vary a condition, whereas this is a planning obligation appeal. I note that the Council themselves described that dwelling as "particularly large" whereas the one before me is described by them as "not exceptionally large". I also have limited evidence beyond the simple assertion of the appellant that recent retirees have been largely responsible for instigating and supporting community activity in the Parish.
15. That decision was also taken in the context of a different local plan, albeit one which apparently maintained the occupancy restrictions in place when this obligation was entered into, and which now find expression in the current Local Plan and SPD. I recognise that consistency in the planning process is important and like cases should be decided in a like manner. However, it is also important that each case is determined on its own merits and on the basis of the evidence. As such, that decision does not affect my conclusions on the evidence before me in this appeal and the case as a whole.
16. I note the support of the Parish Council for the proposal, but also the lack of detail in that response. As such, it does not alter my reasoning set out above.

Conclusion

17. For the reasons given, the appeal should be dismissed, and the obligation shall continue to have effect without modification.

S Dean

INSPECTOR