



Appeal Decision

Site visit made on 24 September 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/T3725/W/24/3342613

Gracedieu, Rowington Green, Rowington, Warwickshire CV35 7DB

- 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 David Pickering against the decision of Warwick District Council.
 - The application Ref is W/24/0162.
 - The application sought planning permission for the erection of a farm manager's house without complying with condition 3 attached to planning permission Ref W/80/492, dated 26 June 1980.
 - The condition in dispute is No 3 which states that:
The occupancy of the dwelling shall be limited to persons 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, or the dependant of such persons residing with him (but including the widow or widower of such person).
 - The reason given for the condition is:
The site is within the West Midlands Green Belt, and the development is only permitted to meet the needs of agriculture, forestry or of the rural community, in accordance with the Green Belt policy, as defined in the County Structure Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. I am also aware of the consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Background and Main Issue

3. Planning permission was originally granted for the dwelling known as Gracedieu in June 1980. The dwelling was subject to an agricultural occupancy condition as detailed in the banner heading above. It is not disputed between the parties that, at the time of its imposition, this condition was reasonable and necessary. The site was within the West Midlands Green Belt at the time permission was granted and this remains the case.
4. The original planning permission was associated with a dairy farming operation at Lyons Farm. Since the grant of planning permission the agricultural holding

has reduced in size from 216 acres to 96 acres. The focus of farming activity has altered from dairy farming to arable farming and sheep pasture. More recently, the Warwick District Local Plan 2017 (WLP) was adopted. The WLP included the village of Rowington Green as a limited infill village and Gracedieu falls within this boundary. Permission has been granted for residential development in the former farmyard for a residential development of three dwellings (granted permission under Council Ref W/23/1705).

5. The main issue is, therefore, whether the condition is reasonable and necessary in order to limit the occupancy of the dwelling to an agricultural or forestry workers dwelling having regard to:
 - a) whether the proposal would be in accordance with current development plan policy relating to limited infilling in villages and therefore be acceptable in principle as a new dwelling,
 - b) the need for an agricultural or forestry workers dwelling in relation to farming operations at the farm holding, and
 - c) if there is no requirement for the dwelling in relation to operations at the farm holding, whether the dwelling could meet the needs of another such worker.

Reasons

Accordance with current development plan policy

6. The appeal site is located within the West Midlands Green Belt. The approach to development in the Green Belt within the District is set out in policy DS18 and this sets out that national planning policy will apply. I have taken this to mean paragraphs 142-156 of the Framework. Paragraph 152 sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 specifies that the construction of new buildings as being inappropriate in the Green Belt except in certain circumstances which include (e) limited infilling in villages and, (g) limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
7. In this case the site is further set within the boundaries of a settlement identified as a limited infill village wherein policies H1 and H11 of the WLP apply to housing development. Policy H1 allows for limited infilling but is subject to the detailed requirements set out in policy H11. Policy H11 specifies certain criteria for such scenarios, and these include criterion b), that the development comprises the infilling of a small gap fronting the public highway between an otherwise largely uninterrupted built up frontage, which is visible as part of the street scene.
8. Whilst I recognise that no new building is being proposed here, the argument forwarded by the appellant hinges upon the acceptability of a new dwelling in this location and therefore these policies of the development plan and paragraphs of the Framework remain relevant.
9. Having regard to Gracedieu and its position within the defined limited infill boundary, I note that it presently does not occupy a small gap, does not address the street and is not readily noticeable in the street scene. I have

reached this conclusion because the dwelling is bounded on all sides by some form of open space; a field, a cricket pitch, a large front garden to a neighbouring home and the ample sized garden to Gracedieu itself. The property does not address Rowington Green, it faces onto the access track into the farm and it is set in a secluded position behind a mature hedge and tree screen.

10. Accordingly, were this to be an open parcel of land and assessed simply as a new dwelling, it would not be able to comply with the provisions of policy H11 insofar as it does not comply with criterion b) of this policy. It would not accord with the exceptions listed at paragraph 154 (e) or (g) of the Framework and would thus conflict with policy DS18 of the WLP. Consequently, as an unrestricted dwelling, it would be unlikely to receive permission in this location without other material considerations of weight or some form of very special circumstance being demonstrated. The condition restricting its occupation to an agricultural or forestry workers dwelling therefore remains reasonable and necessary in order to accord with the Green Belt policies of the development plan and the provisions of the Framework.

Need for an agricultural or forestry workers dwelling

11. The original dwelling was granted permission for a farm managers dwelling in connection with a dairy farm that extended to 216 acres. In such circumstances it would not be unreasonable to expect that on-site accommodation would be essential to cater for the needs of a herd of cattle over this extent of land. In the intervening period, the farm holding has reduced in size and the smaller farm holding has directed its focus towards arable farming and sheep pasture where the necessity of an on-site manager is much reduced. Moreover, the farmyard immediately to the rear of Gracedieu has since been granted planning permission for development of three dwellings. Although these have not presently been constructed, I have no reason to believe that this permission will not be implemented in the fullness of time.
12. Policy H12 of the WLP refers to housing for rural workers. Whilst this policy relates to the provision of new dwellings, as opposed to the removal of an occupancy condition, the criteria are pertinent here. In summary these set out that, in assessing need for rural workers, various factors will be taken into account: a) there is a clear functional need for the person to be readily available on the site at most times; b) the worker is fully or primarily employed on the site to which the proposal relates; c) the business is financially sound and has a clear prospect of remaining so; d) the dwelling sought is of an appropriate size commensurate with the established functional requirement; and e) the need cannot be met by an existing dwelling on the unit, or by other existing accommodation in the area.
13. It has been shown that there is no present functional need for an on-site agricultural workers dwelling; but also the changes in the farming practice, through land disposal or the like, have been altered so significantly that it seems highly unlikely that there would ever be a need in future on this farm. Moreover, there is no viable farming enterprise on the site for an agricultural or forestry worker. In this regard, criteria a), b) and c) have been complied with. I do not have details of the dwelling in order to consider whether

- criterion d) can be met, but from a visual inspection, the dwelling does not appear to be excessively large or an unrealistic proposition for a family home.
14. On this basis, it has therefore been shown that in relation to criteria a) – d) of policy H12, that it is no longer reasonable or necessary to restrict the dwelling to that of an agricultural or forestry worker on the farming unit.
 15. Nevertheless, the disputed condition does not limit the occupancy of the dwelling to a specific holding and therefore, the need for agricultural and forestry dwellings in the wider area must also be considered. Its wording is much more inclusive and allows for persons solely or mainly or last employed in agriculture, or forestry or the widow or widower of such persons. Indeed, the reason for the condition is to meet the needs of agriculture, forestry or of the rural community, not specifically for this farm holding or for the sake of efficiency. This interpretation is much wider and could encompass a variety of people in the local area. It is, in effect, not complying with the intent of policy H12 e) of the WLP when considered in a wider context.
 16. In this regard I have noted the appellant's commentary that a marketing exercise should not be required. It is not in dispute that there is no policy requirement to do so. However, there seems to be no other mechanism to fully explore whether there is interest from any other eligible persons who would comply with the terms of the condition.
 17. The absence of a marketing exercise leaves me without evidence that an agricultural worker or forester could not come forward. Additionally, the condition also allows occupation by somebody last employed in agriculture or forestry or widow or widower, which increases the likelihood of finding persons who could comply with the condition. Moreover, the lack of isolation of Gracedieu may make it more inviting for a broader cross section of eligible persons, as opposed to a lone dwelling in the countryside that has a clear affiliation with a particular farm holding.
 18. However, no targeted marketing efforts toward the farming community have been made to gauge the demand from other qualifying persons. Furthermore, the appellant has not provided any other evidence that there is no local demand for the property as a rural worker's dwelling. Whilst any dwelling with a restrictive occupancy condition may naturally attain a lower market price due to the smaller pool of potential occupants, this is not the stated purpose of the condition. Ultimately, without a marketing exercise or some form of alternative assessment, the demand for the property with the occupancy restriction remains untested.
 19. I have noted the reference to the appeal at Hazel Head Farm, Arkendale¹ where, equally, there was no policy requirement to undertake a marketing exercise. However, it seems to me that reasonable discussion between the Council and appellant could resolve any definition of 'local' and this should not be regarded as a barrier to undertaking such an exercise.
 20. For these reasons, I find that the evidence provided does not compellingly demonstrate that there is no longer a demand for an agricultural or forestry worker's dwelling in the locality. Removal of the condition would result in an unrestricted dwelling in the Green Belt contrary to the presumption against

¹ APP/E2734/W/19/3234758 & APP/E2734/W/19/3234759

such forms of development. Consequently, the condition restricting the occupancy of the dwelling remains necessary, reasonable, and relevant to planning. To remove the condition would conflict with policies DS18 and H12 of the WLP. The condition complies with the tests set out in paragraph 56 of the Framework and the advice set out in the Planning Practice Guidance.

Conclusion

21. For the reasons given above, condition 3 remains reasonable and necessary. Therefore, the appeal is dismissed.

Nick Bowden

INSPECTOR