
Appeal Decision

Hearing Held on 13 October 2017

Site visit made on 13 October 2017

by David Cross BA (Hons), PGDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 December 2017

Appeal Ref: APP/L3815/W/17/3175066

Idolsfold House, Balls Cross Road, Kirdford, Billingshurst RH14 0JJ

- 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 Nigel Waite against the decision of Chichester District Council.
 - The application Ref KD/16/03338/FUL, dated 6 October 2016, was refused by notice dated 5 December 2016.
 - The application sought planning permission for proposed agricultural worker's dwelling without complying with a condition attached to outline planning permission Ref KD/4/82, dated 8 June 1982.
 - The condition in dispute is No 4 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed or, having ceased employment, last employed in the locality in agriculture as defined in section 290(1) of the Town & Country Planning Act 1971, or in forestry (including any dependents of such a person residing with him or her) or a widow or widower of such a person.
 - The reason given for the condition is: The site lies in a rural area where, in accordance with Structure Plan policy, development unrelated to the essential needs of agriculture and/or forestry would not normally be permitted.
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Decision

1. The appeal is allowed and outline planning permission granted for a proposed agricultural worker's dwelling at Idolsfold House, Balls Cross Road, Kirdford, Billingshurst RH14 0JJ in accordance with the application Ref KD/16/03338/FUL, dated 6 October 2016, without compliance with condition 4 previously imposed on outline planning permission ref. KD/4/82, dated 8 June 1982.

Procedural Matters

2. Notwithstanding the details given on the planning application form, the appellant's details were confirmed at the Hearing and I have used these in the above heading.
3. The application form and therefore the appeal before me seek the removal of condition 4 attached to planning permission ref KD/4/82 which grants outline planning permission for the development described above. Any subsequent reserved matters approvals and associated conditions are therefore not before me.

Main Issue

4. The main issue in this appeal is whether the disputed condition is reasonable and necessary, having regard to national and development plan policy, to meet the essential need for a rural worker to live permanently at or near their place of work.

Reasons

Background and Planning Policy

5. The appeal property consists of a 5 bedroom house set within a plot of land. Differing areas for the land have been provided to me, varying between 11 to 16 acres. However I saw that the house is set within an extensive area of land which includes a residential garden, tennis court, sand school, outbuildings and pasture. It is located within the open countryside approximately 1.3km from the village of Kirdford.
6. The dwelling was permitted in 1982 as part of a more extensive landholding associated with Parsonage Farm. Outline planning permission was granted on the basis that it was required for the landowner of the wider farm unit, although I note that the land was then subdivided and the appeal site was subsequently used as part of a smallholding. Permission was therefore granted on the basis that there was a need for an agricultural workers dwelling on the site. Although of a historical nature, this background is reflected in the current National Planning Policy Framework (the Framework) which permits isolated homes in the countryside in special circumstances, including where there is an essential need for a rural worker to live permanently at or near their place of work.
7. The Council state that the proposal would be contrary to Policy 26 of the Chichester Local Plan: Key Policies 2014-2029 (LP). This Policy relates to "Existing Employment Sites" and the Council refer to this on the basis that the proposal relates to accommodation linked to the provision of employment and that it requires a marketing exercise to be carried out to demonstrate that the asset is no longer required.
8. However, I note that Policy 37 of the LP specifically relates to "Accommodation for Agricultural and Other Rural Workers". Whilst Policy 37 may relate to new accommodation, it is implicit in the final paragraph of that Policy that it requires a condition in relation to occupation by agricultural, forestry or other rural workers. Furthermore, I note that Appendix E of the LP also requires that a marketing exercise be undertaken in relation to proposals assessed against Policy 37. Read objectively and in context, I therefore consider that the proposal is more appropriately assessed against Policy 37 and that Policy 26 does not bear directly on the main issue in this appeal.
9. The Council's reason for refusal also refers to Policy H.3 of the Kirdford Parish Neighbourhood Development Plan 2014 (NP). Policy H.3 relates to agricultural occupancy conditions, including measures to be taken when removal of a condition is proposed.
10. The appeal property has changed ownership a number of times, and I note that the appellant queries whether a number of owners met the terms of the condition. In this regard, I note that the appellant purchased the property in 1999 and at that time was considered to meet the requirements of the

occupancy condition due to his involvement in a bedding plant business and subsequent nursery/garden centre. The appellant questions whether he would now be considered to meet the occupancy condition and contends that he has been resident at the property in breach of the condition in excess of 10 years, however this matter does not fall within the remit of this appeal.

Need for Agricultural/Forestry Accommodation

11. The appellant questions whether the appeal site is viable for an agricultural or forestry enterprise. However, the need for the accommodation also relates to a rural worker living *near* their place of work. This is reflected in the wording of the disputed condition which refers to agricultural or forestry employment "in the locality".
12. The Council emphasise that the site is located in an area surrounded by agricultural land including a number of farms. The reasoned justification for Policy H.3 of the NP also refers to evidence from a local business survey which identifies agricultural and forestry operations that have been retained in the area. The NP emphasises that the provision of appropriate housing is therefore required, including through the retention of occupancy conditions.
13. I have had regard to the evidence provided by the appellant in relation to declining rural populations and a search of planning applications, although I note that he accepts that there have been some applications for mobile homes for existing businesses.
14. On the basis of the evidence before me, I conclude that there remains a need for rural workers' dwellings in the locality of the appeal site.

Market Price

15. I have considered whether the asking price of the property fairly reflects the agricultural occupancy condition. Both the LP¹ and the NP² specify that, in effect, a property should be marketed at no more than 70% of open market price to establish whether it would meet the needs of another local farm or rural business.
16. To determine the open market price, the appellant obtained quotes from two Estate Agents who identified a guide price of £1.5 to £1.6 million if the property was marketed without the agricultural occupancy condition. The property was subsequently marketed at £1 million which I consider to be a fair market price reflecting the reduction required by development plan policy.
17. The Council contest this figure and state that an open market price of £1.2 to £1.25 million would be more reasonable. However, this figure would appear to be based on a 30% uplift from a cash offer made in response to the marketing of the property. In my view, this approach does not reflect that recommended in the development plan which indicates that the starting figure should be the open market price rather than a valuation based on offers with restrictions in place.
18. I therefore consider that the appellant has provided professional and independent valuations of the property to justify both the open market price and the subsequent market price of the property with the condition in place.

¹ Appendix E.8

² Informative to Policy H.3

Based on the evidence before me, and taking account of the site location and plot size, an asking price of £1 million does not seem unreasonable.

Marketing Exercise

19. Appendix E of the LP requires that the information submitted in relation to the marketing process should include an enquiry log. At the Hearing, it was confirmed that this had not been submitted with the planning application, but a list of viewing arrangement details had been provided with the Statement of Common Ground in advance of the Hearing. A copy of the viewing arrangements list was also provided at the Hearing and the Council was provided with the opportunity to assess this. Therefore, the interests of the main parties have not been prejudiced by my consideration of this evidence.
20. Both Appendix E of the LP and Policy H.3 of the NP require a marketing exercise to be undertaken in circumstances such as these. The appellant confirms that the property was marketed for a period in excess of 12 months in advance of submitting the application. The marketing included adverts in the local and national press (including agricultural publications) and details were also continuously available on a number of property websites. I consider that the scope of this marketing was sufficient, as indicated by the number of enquiries referred to by the appellant.
21. I note that Appendix E of the LP requires photographic evidence of marketing boards placed on the site. However, in view of the increasing reliance on the internet for the marketing of property I consider that the wider marketing exercise was suitably robust.
22. In the statement in support of the application, it was stated that one formal offer was received which met the £1 million asking price and was from a bidder who was considered to meet the occupancy condition. However, I note that this bid did not proceed due to the financial situation of the bidder.
23. The Council refer to a further cash offer of £915,000 which was received from a third party which is also reflected in some of the comments raised. The appellant rejected this offer as he did not consider that the bidder met the requirements of the occupancy condition, although I note that there is some dispute between the parties as to whether this would have been the case. Notwithstanding this, I am mindful that this offer is significantly below the identified market price of the property with the condition in place. I acknowledge that there is some flexibility in development plan policy which includes phrases such as "no more than 70%" or "a discount of at least 30%". However, even allowing for such flexibility I do not consider the cash offer represents an appropriate valuation of the property. The Council also confirmed in the Hearing and in the statement of Common Ground that a 30% reduction is appropriate. The appellant has therefore not been unreasonable in rejecting this offer.
24. In summary, I am satisfied that a suitable marketing exercise was undertaken. Whilst this generated some interest including two bids, the marketing exercise was unsuccessful as the bids did not proceed for the reasons stated above.
25. I acknowledge that someone purchasing a dwelling for a high price may be able to use this to justify the removal of an occupancy condition, but the policies of the development plan are designed to address such a situation.

Consideration of Alternative Uses

26. Policy H.3 of the NP requires that if the removal of an agricultural occupancy condition is deemed acceptable, then the unit should be made available as an affordable dwelling unless it can be demonstrated that this would be unviable, unsuitable or unnecessary in this location. Due to the market value of the property I do not consider that the proposal would be viable as an affordable dwelling, even with an appropriate discount. I am also mindful that the property is located within the open countryside and is remote from services, which would limit its suitability as an affordable dwelling. For these reasons I consider that the property would be unviable and unsuitable as an affordable dwelling so that removal of the occupancy condition does not therefore conflict with the provisions of Policy H.3.

Conclusion

27. Drawing the above together, whilst I accept that there is a need for dwellings for rural workers in this locality, I have found that the appeal property is no longer one which could meet that need. Thus the disputed condition is no longer reasonable or necessary. On that basis, removal of the condition would not conflict with Policy 37 of the LP or Policy H.3 of the NP.

28. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed. I have granted a new outline planning permission without the disputed condition. No additional conditions were considered necessary by the Council and I agree that none are needed. As the dwelling has been constructed, there are no conditions on the original outline planning permission which need to be re-imposed.

David Cross

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Nikolas Antoniou BSc(Hons) DipTP MRTPI	Planning Consultant, NJA Town Planning Limited
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Angus Farquhar FRICS FAAV	Agent
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Nigel Wait	Appellant
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FOR THE COUNCIL

Paul Hunt	Chichester District Council
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Caitlin Boddy BA(Hons) MPLAN MRTPI	Senior Planning Officer
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Mark Regan	Chichester District Council
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Summer Sharpe	Planning Apprentice
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DOCUMENTS SUBMITTED AT THE HEARING

1. Supporting text for Policy 37 from Adopted Chichester Local Plan: Key Policies 2014-2029, submitted by the Council.
2. List of Viewing Arrangements, submitted by the appellant.