The Planning Inspectorate

Appeal Decision

Site visit made on 25 October 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/P1045/W/22/3295248
Beechmount, Pinfold Lane, Bradley DE6 1PN

- 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 and Mrs Steve Ford against the decision of Derbyshire Dales District Council.
- The application Ref 21/01024/VCOND, dated 5 August 2021, was refused by notice dated 7 January 2022.
- The application sought planning permission 'to erect one new bungalow at Pinfold Farm, Bradley' without complying with a condition attached to planning permission Ref ASR/770/17, dated 19 November 1970.
- The condition in dispute is No 3 which states that: *"The occupation of the house shall be limited to persons employed, or last employed, locally in agriculture as defined in Section 221(1) of the Town and Country Planning Act 1962, or in forestry, and the dependents of such persons."*
- The reasons given for the condition is: *"Because of its location the site is not considered suitable for residential development not connected with agriculture."*

Decision

1. The appeal is allowed and planning permission is granted to erect one new bungalow at Beechmount, Pinfold Lane, Bradley DE6 1PN in accordance with the application Ref 21/01024/VCOND, dated 5 August 2021, without compliance with condition number 3 previously imposed on planning permission Ref ASR/770/17, dated 19 November 1970.

Applications for costs

2. An application for costs was made by Mr Steve Ford against Derbyshire Dales District Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the condition is necessary and reasonable in relation to restricting the occupancy of the bungalow as an agricultural or forestry worker's dwelling.

Reasons

4. The appeal site is located off Hadley Lane. The site consists of a single storey detached dwelling associated with around 1.88 acres of pastureland. The bungalow is enclosed by mature hedging on its roadside boundary.

5. Planning permission was originally granted for the appeal property in 1970 when Pinfold Farm was farmed as a sheep farm. The disputed condition was attached to the original planning permission and it restricted the occupancy of the property to someone employed or last employed in agriculture or forestry. However, since the approval of the original application, Pinfold Farm has been sold off in separate parts, resulting in separate ownerships of the land and farm buildings. Accordingly, the farmstead and agricultural business that the appeal property was originally tied to has become fragmented. This means that the appeal site no longer forms part of a wider agricultural enterprise.

6. Policy HC13 of the Derbyshire Dales Local Plan (2017) (Local Plan) relates to Agricultural and Rural Workers Dwellings. It states that proposals for the removal of restrictive occupancy conditions will only be granted where it can be demonstrated that a) the restriction has outlived its original purposes, and; b) there is no reasonable prospect of the dwelling being occupied by an agricultural or other rural based worker as demonstrated by a comprehensive marketing exercise which reflects the nature of the occupancy restriction.

7. In respect of considering part a) of Policy HC13, it is necessary to consider whether a viable agricultural business could be run from the associated land. The appellant suggests that the appeal site is too small to support a viable agricultural business. The appeal site's small size, which is limited to around 1.88 acres of land, would not be suitable to support an agricultural enterprise without additional land. As the original farm has become fragmented and is now in separate ownerships, the physical and functional link with the original agricultural use no longer exists. Consequently, due to the site's constrained size, there is no real prospect of a viable agricultural business being run from the appeal site.

8. Furthermore, the Council's agricultural consultant indicated that whilst opportunities to undertake hobby scale farming such as bee keeping could be undertaken from the appeal site, it is unlikely that this would provide a sufficient living wage for someone working in agriculture.

9. There is no evidence before me to demonstrate that there are any other rural enterprises in the immediate area which would benefit from the proximity of the appeal dwelling to its farming operations. Therefore, it is likely that occupants of the appeal property would have to travel some distance from the site in order to work within agriculture or forestry. This would conflict with the purpose of the agricultural dwelling, which is its connection with the land. The reason for the condition was about the location of the site, rather than maintaining the supply of affordable farmworkers accommodation.

10. As such, there is little evidence before me to suggest that a viable rural business could be run from the appeal property, or that it could be occupied as part of a viable rural enterprise within the local area. It is therefore surplus to its original need. Consequently, I conclude that the condition has outlived its original planning purpose.

11. The appeal property had been valued and previously offered for sale using a guide price of £350,000. In this regard, it was a general property sale done by the previous owner to dispose of the property and was not done to demonstrate compliance with Policy HC13 to remove the restriction. The property was valued by an experienced chartered surveyor. Therefore, I see no reason to disagree with the guide price, as this ended up being the price the

property was sold for. The Council have not provided any evidence to the contrary.

12. During the general property sale, there were 9 initial viewing requests but only 4 parties visited the property. There is dispute between the main parties as to whether those viewing the property were aware of the agricultural tie. Be this as it may, the appeal property was still marketed for a period of time. Based on the evidence before me, there was little genuine interest in the appeal property.

13. Although the general property sale was not a policy complaint marketing exercise, it was supplemented by a survey of properties with a potential need for additional farm workers accommodation.

14. The direct marketing campaign was undertaken by the appellant to ascertain the local demand using a satisfactory search radius from the appeal property. I note that the mailing did not suggest the value of the property, and nor did it offer the property for sale, which the appellant claims was necessary to comply with the Consumer Protection from Unfair Trading Regulations 2008. The Council did not provide a legal view to counter that argument. Given the property is currently occupied, the direct marketing campaign was a suitable alternative to a conventional marketing exercise.

15. As farm addresses were targeted within a suitable radius, this meant that people who were most likely to comply with the occupancy condition or would require a worker's dwelling to support their farm labour were contacted. The mailing letter shown in appendix 3 of the appellant's planning statement clearly states that the 'dwelling is subject to an agricultural occupancy condition'. The results indicated that there was little interest in the appeal property from people who would comply with the occupancy condition.

16. I note the Council consider that the marketing period was not appropriate, and a minimum of six months should have been applied to test the market and establish an interest. However, I have not been directed to evidence that a minimum 6-month marketing period is a policy requirement. Furthermore, the appellant undertook a direct marketing campaign in addition to the original general property sale.

17. I am therefore satisfied that the evidence demonstrated that there was no local interest raised generally by those eligible to purchase the property. Consequently, I find no conflict with Policy HC13 of the Local Plan.

Conclusion

18. For the reasons set out above, I conclude that the disputed condition restricting the occupancy of the bungalow as an agricultural or forestry worker's dwelling is not reasonable or necessary.

19. The appeal proposal would result in an open market dwelling located in open countryside. However, the circumstances of the appeal site indicate that the decision should be made other than in accordance with the development plan.

20. In addition to the disputed condition, two other conditions were placed on the original planning permission (ASR/770/17) in respect of commencement and materials. However, as the construction of the bungalow has already been

completed on site, I do not consider it necessary to re-impose those conditions. Therefore, I conclude that the appeal is allowed.

Helen Smith

INSPECTOR

The Planning Inspectorate

Costs Decision

Site visit made on 25 October 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Costs application in relation to Appeal Ref: APP/P1045/W/22/3295248
Beechmount, Pinfold Lane, Bradley DE6 1PN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Steve Ford for a full award of costs against Derbyshire Dales District Council.
- The application Ref 21/01024/VCOND, is dated 5 August 2021, was refused by notice dated 7 January 2022.
- The appeal was against a refusal to grant planning permission 'to erect one new bungalow at Pinfold Farm, Bradley' without complying with a condition attached to planning permission Ref ASR/770/17, dated 19 November 1970.
- The condition in dispute is No 3 which states that: *"The occupation of the house shall be limited to persons employed, or last employed, locally in agriculture as defined in Section 221(1) of the Town and Country Planning Act 1962, or in forestry, and the dependents of such persons."*
- The reasons given for the condition is: *"Because of its location the site is not considered suitable for residential development not connected with agriculture."*

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantiative matters (i.e. issues related to the planning merits of the appeal).

4. Essentially the applicant is seeking a full award of costs due to the Council's failure to issue a decision within the statutory 8-week period for the planning application (21/01024/VCOND) and their alleged unreasonable behaviour. The Council has not provided any explanation of the reasons for the delay in reaching a decision.

5. The application was not determined by the Council within the 8-week period, however an extension of time was requested by the Council and the application was subsequently refused. While I understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably in terms of the timescale for determining the planning application.

6. Furthermore, the Council refused the application and provided clear and detailed reasons why it did not grant permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary expense. Moreover, I have found that the Council had reasonable concerns about the proposal in my findings on the appeal.

7. The applicant states that the Council behaved unreasonably by failing to take on board the information submitted. Based on the evidence before me, I consider the Council to have acted reasonably with regards to the information submitted to them by the applicant. Indeed, the Council did provide comments in their statement of case on the additional information submitted by the appellant at the appeal stage.

8. With regards to the agricultural consultant's response, the Council were not bound by these comments. The Council exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the adopted Development Plan for the area. Therefore, I find the Council to have acted reasonably in this instance.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Helen Smith

INSPECTOR