



Appeal Decision

Site visit made on 1 April 2019

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2019

Appeal Ref: APP/T3725/W/19/3220672

Dial House Farm, Ashow Road, Ashow CV8 2LD

- 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 Anthony Cummins against the decision of Warwick District Council.
 - The application Ref W/18/1367, dated 18 July 2018, was refused by notice dated 14 December 2018.
 - The application sought planning permission for the conversion of outbuildings to 5 dwelling houses at Dial House Farm, Stoneleigh Road, Ashow/Leek without complying with a condition attached to planning permission Ref W/90/0006, dated 20 March 1990.
 - The condition in dispute is No 9 which states that: *the occupancy of the dwelling identified as Plot 5 on the approved drawing (C152/399/12B) 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.*
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of outbuildings to 5 dwelling houses at Dial House Farm, Stoneleigh Road, Ashow/Leek in accordance with the application ref W/18/1367 dated 18 July 2018, without compliance with condition 9 previously imposed on planning permission ref W/90/0006, dated 20 March 1990, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Main Issue

2. This is whether the agricultural occupancy condition is and continues to be necessary and reasonable to protect the Green Belt.

Reasons

3. The appeal site is within the Green Belt, outside an existing settlement and is part of a complex of outbuildings associated with Dial House Farm and the farmhouse. The farmhouse is a listed building and the outbuildings which are

- in residential use are identified as plots 1-5, plot 5 being the subject of this appeal.
4. When permission was granted for the outbuildings to be converted to residential use, the farm was also in use and land was being farmed. For this reason, and because the Council didn't want to necessitate a house in the Green Belt, the Council found that there was a functional need for the occupancy of unit 5 to be limited to a rural worker. As such an agricultural occupancy condition was imposed.
 5. I have limited information in relation to why a functional need was considered to exist at the time of granting planning permission. Notwithstanding this, my task is to determine whether the condition remains necessary and reasonable in accordance with paragraph 55 of the National Planning Policy Framework.
 6. I therefore need to consider whether a functional need for a dwelling for an agricultural worker still exists. It is clear from the evidence before me that land associated with the farm continues to be grazed. However, it is unlikely, in my experience, that land in use for grazing would require a person on hand to manage it such that a functional need for a new dwelling would be likely to exist for those purposes alone. Furthermore, the appellant confirms that it is a farmer from Stoneleigh who is using the land for grazing which is evidence of it not being necessary for a person to live in unit 5 to manage the land concerned. The Council have provided no evidence to the contrary, nor have I been provided with any evidence of a general need for agricultural properties in the area.
 7. The appeal site is within the Green Belt. Paragraph 146 of the National Planning Policy Framework identifies forms of development that are not inappropriate in the Green Belt, the re-use of buildings being one such form, provided they preserve openness and do not conflict with the purposes of including land within it. The appeal proposal relates to a planning permission which comprised the re-use of a building. If the proposal were to be considered afresh today, removing the condition would have no harmful effect on the openness of the Green Belt or on the purposes of including land within it. Testimony of this is the fact that at the time the Council applied the occupancy condition, it considered the four other units to be acceptable within the Green Belt with no such condition.
 8. The Council states that the reason for the condition was to prevent a further dwelling in the Green Belt associated with a functional need for an agricultural unit. Having regard to the lack of evidence of a functional need existing, either for this farming enterprise or more generally in the area, there is no evidence that the removal of the disputed condition would have this effect. Furthermore, any such proposal would be required to comply with any relevant development plan policies related to that type of development.
 9. The Council maintains that in removing the condition, the development would be contrary to policy H1 of the Local Plan¹. The appeal site is in the open countryside. I agree that the location of the appeal site does not meet the criteria in H1 d). Nevertheless, part e) of the policy states that elsewhere in the countryside housing development will be permitted where the development would re-use redundant or disused buildings in accordance with Policy BE4. The

¹ Warwick District Local Plan 2011-2029 (adopted September 2017)

appeal proposal would comply with policy BE4 of the Local Plan and the Council does not seek to argue otherwise. As such, if the original development were to be considered afresh today, it would comply with policy BE4 and, in turn, policy H1 of the Local Plan without the disputed condition, as evidenced by the Council's approval of four other units at the time of granting the original permission. It follows therefore that the removal of the disputed condition would not conflict with those policies.

10. In light of the above and there being nothing specific or substantive within the evidence before me to demonstrate that the condition remains necessary, I find that the condition limiting the occupancy of unit 5 to a rural worker does not remain necessary or reasonable and it would not meet the tests in paragraph 55 of the National Planning Policy Framework. To remove it would not be contrary to policy H1 of the Local Plan.

Other matters

11. Concerns have been raised by third parties for the appellant's motive for the appeal proposal. I am unable to assess any speculative concerns, the application before me is for residential purposes without the restrictive condition and I have found the condition to be unnecessary for the reasons set out above. Notwithstanding this, any subsequent works that require planning permission will be put before the Council for consideration and assessed in light of the site and planning policy.
12. Reference is made by the Council and third parties to the property not being marketed to demonstrate that the dwelling is no longer required to accommodate a rural worker. There is nothing before me to suggest that this is a policy requirement and therefore I do not find the proposal contrary to policy in this regard.

Conclusion

13. For the reasons given and having regard to all other matters raised, I conclude that the disputed condition is not necessary or reasonable. Its deletion would not harm the Green Belt and would not be contrary to the development plan or the National Planning Policy Framework. Condition 9 should therefore be removed.

R Walmsley

INSPECTOR