

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/11/15

gan Kay Sheffield BA(Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 23/11/15

Appeal Decision

Site visit made on 04/11/15

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 23/11/15

Appeal Ref: APP/H6955/A/15/3130724

Site address: Oak View, Chapel Lane, Bronington, Whitchurch, SY13 3HP

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Peter Lloyd against the decision of Wrexham County Borough Council.
- The application Ref P/2015/0091, dated 2 February 2015, was refused by notice dated 30 March 2015.
- The application sought planning permission for the erection of a bungalow and installation of a septic tank without complying with a condition attached to planning permission Ref BRN 18393, dated 8 April 1991 and planning permission BRN 20152 dated 11 May 1992.
- The conditions in dispute are No 6 of BRN 18393 and No. 5 of BRN 20152 which state that: The occupation of the building shall be limited to a person or persons solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990 or in forestry (including any dependents of such person residing with him or her) or a widow or widower of such a person.
- The reason given for the conditions is: To ensure that the dwelling is only occupied by the family of a bona fide agricultural worker in accordance with the Council's established planning policies governing residential development in the countryside.

Decision

1. The appeal is dismissed.

Procedural matter

2. The appeal relates to two planning permissions, the earlier permission, BRN 18393, granted outline permission for the development whereas the later permission, BRN 20152, approved the matters reserved under the terms of the outline permission.
3. The boundary of the site shown on the plan set out in the Council's report differs from that shown on the site plan submitted by the Appellant as part of the application, which is also different from that submitted with the appeal. However, as the latter plan reflects the boundaries I observed on site and the Appellant has indicated that some land has been sold since permission was granted for the bungalow, I have taken this plan to be the most accurate before me in identifying the current boundaries of the land associated with the property.

Main Issue

4. The main issue is whether the disputed conditions in restricting the occupation of the property continue to be reasonable and necessary.

Reasons

5. The appeal site lies within the countryside, approximately 1.5km south of Bronington. It is located on the eastern side of Chapel Lane, a narrow road which serves a scattering of residential properties along its length. The appeal site extends to approximately 2ha and consists of a single storey dwelling set back from the road with a driveway to the side and a small rear garden. Although the remainder of the site is largely planted with trees it does contain several outbuildings including a poly-tunnel.
6. Policy H6 of the Wrexham Unitary Development Plan, 2005 (UDP) relates specifically to the discharge of conditions restricting the occupancy of dwellings to agricultural or key forestry workers. The policy states that applications to discharge such conditions will only be permitted where it can be satisfactorily demonstrated that *"the long term key worker housing need has ceased; and bona fide attempts over a period of at least twelve months at a price reflecting the existence of the occupancy condition, bearing in mind general market conditions, have been unsuccessfully made to sell or rent the property to persons eligible under the original condition"*.
7. Technical Advice Note 6: Planning for Sustainable Rural Communities, 2010 (TAN 6) postdates the UDP. The occupancy condition set out in paragraph 4.13.1 goes further than the conditions subject of the appeal and includes those eligible for affordable housing. Paragraph 4.13.5 states that where planning applications are received to lift existing agricultural occupancy conditions, consideration should be given to replacing the existing condition with a rural enterprise condition. This is considered to be often justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.
8. The Appellant confirmed to the Council prior to the determination of the planning application that he was seeking the complete removal of the occupancy restrictions rather than their replacement with a condition that would allow the property to be occupied by rural enterprise workers or those in need of affordable housing. The Council contends that insufficient evidence has been submitted to demonstrate that there is no longer a requirement in the locality for housing to accommodate agricultural or forestry workers, the workers employed by other rural enterprises or those eligible for affordable housing. It also considers that insufficient attempts to market the property at a value reflecting the existence of the occupancy condition have been made.
9. The Appellant is retired and no longer operates a business from the site. Whilst I fully understand the reasons behind his desire to sell the property. I note that the survey conducted by the Appellant did not identify any workers in need of accommodation who would fulfil the occupancy condition and reference has been made to other properties in the area with occupancy restrictions which are currently on the market. However, these factors alone do not indicate that there is no longer a need for an occupancy condition.
10. In his appeal submission the Appellant, in using a formula provided by the Council, has calculated the value of the property to be approximately £283,484. This is lower but in the region of the valuation of £300,000 given by the estate agents, Halls, which is stated reflect the occupancy condition. However, the letter of 4 February 2015 from

Halls indicates that the property was first offered for sale at £425,000 and the sales particulars submitted by the Council seek offers in the region of £375,000. The sales details identify the agricultural tie but state that steps are being made to have this removed. Whilst the Appellant contends that the asking price is reasonable and reflects the size of property as well as the agricultural occupancy restriction, the price at which it is being marketed is clearly in excess of the two valuations. I am therefore not satisfied by the evidence that the asking price in the region of £375,000 does not fully reflect the effect of the occupancy condition on the value of the property.

11. From the figures submitted by the Appellant regarding agricultural wages it would appear that the property, even at the lower value calculated to reflect the occupancy restriction, would be beyond the financial capabilities of local workers who could satisfy the condition. However, as there is no evidence that the property has been marketed at this lower price, I am not satisfied that the market has been tested sufficiently to conclude that there is no demand.
12. Whilst I have no evidence as to the date on which marketing commenced or when the price was reduced, it is clear that at the beginning of October, when the Appellant submitted his final comments on the appeal, the property had been on the market for nine months. The agent confirmed by e-mail on 26 March 2015 that there had been 19,795 hits on the website since the property had been first advertised and although 27 brochures had been sent out only two viewings had taken place. The lack of interest was considered to be due to the occupancy restriction. However, no further report has been submitted and therefore the level of interest shown is limited to three months and at a price in excess of that considered to be reflective of the agricultural restriction. The marketing of the property does not therefore meet the requirements of Policy H6 of the UDP.
13. I note that attempts made by the Appellant to ascertain what the affordable housing situation is in the area and whether the Council is interested in acquiring the property have been inconclusive. There is therefore no definitive evidence that the property would not be appropriate as affordable housing.
14. Whilst I sympathise with the Appellant in his desire to move closer to relatives, the evidence submitted does not demonstrate conclusively that there is no demand for the property with the occupational restriction in place. The removal of the occupancy restriction would therefore be contrary to Policy H6 of the UDP and the guidance in TAN 6.
15. For these reasons, and having had regard to all other matters raised, I conclude that condition No 6 of BRN 18393 and condition No. 5 of BRN 20152 continue to be reasonable and necessary. The appeal is therefore dismissed.

Kay Sheffield

INSPECTOR