



Appeal Decision

Hearing Held on 17 October 2017

Site visit made on 17 October 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 9th November 2017

Appeal Ref: APP/R3325/W/17/3175982

Gunville Farm Bungalow, Harvest Lane, Charlton Horethorne, Somerset DT9 4PH

- 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 Hopkins Development Ltd against the decision of South Somerset District Council.
 - The application Ref 17/00279/S73, dated 19 January 2017, was refused by notice dated 20 March 2017.
 - The application sought planning permission for the erection of an agricultural worker's bungalow on land at the junction of Harvest Lane and Green Lane, Charlton Horethorne without complying with a condition attached to planning permission Ref 842232, dated 18th April 1985.
 - The condition in dispute is No. 4 which states that: The occupation of the dwelling shall be limited to persons employed or last employed in agriculture as defined in section 290 of the Town and Country Planning Act 1971, or in forestry, and to the dependents of such persons.
 - The reason given for the condition is: "The District Planning Authority would not have been prepared to grant permission on this site but for this special need."
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Decision

1. The appeal is allowed and planning permission is granted for a bungalow at the junction of Harvest Lane and Green Lane, Charlton Horethorne in accordance with the terms of the application, Ref 17/00279/S73, dated 19 January 2017, without complying with condition number 4 previously imposed on planning permission reference 842232, dated 18 April 1985 but subject to the following condition:

The existing vehicular parking space located immediately to the south-west of the dwelling shall be kept available at all times for those purposes.

Background

2. The dwelling to which this appeal relates was granted planning permission in 1985 subject to occupancy by someone employed or last employed in agriculture or forestry. The need expressed at that time was to house the owner and his wife who farmed a dairy holding of some 60 acres or so. Upon

the demise of the farmer, the farm was purchased by the appellant who has amalgamated the land as part of his 4000 acre cattle, sheep and arable farm. The adjoining farm buildings are to be retained.

3. The appellant began trying to sell Gunville Farm Bungalow in 2015 and the bungalow has been widely marketed during the intervening period during which the asking price has been reduced.

Main Issue

4. Taking this into account, and also the original reason for the condition, the main issue in this appeal is whether or not there is a continuing need for the occupation of Gunville Farm Bungalow to be restricted, having particular regard to the need for agricultural or forestry worker's dwellings in the area.

Policy Context

5. The parties agree that the appeal site is located in the open countryside outside any recognised settlement and therefore on a site where, in accordance with the Council's settlement strategy, permission would only be granted in accordance with the provisions of national policy. The National Planning Policy Framework (the 'Framework') at paragraph 55 states that isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work.
6. Policy HG10 of the South Somerset Local Plan (2006-2028) (the 'LP') sets out the Council's detailed approach to proposals for the removal of agricultural occupancy conditions (AOC). It states that permission for the removal of a restrictive occupancy condition will only be given where it can be evidentially shown that firstly, there is no longer a continued need for the property on the holding; secondly, there is no long term need for such a dwelling to serve local need in the locality; and thirdly, the property has been marketed locally for an appropriate period (minimum 18 months) at an appropriate price and evidence of marketing is demonstrated.
7. To this end, there is a requirement to demonstrate that the dwelling is no longer required for workers on the holding or in the local area, nor that it is likely to be required in the foreseeable future. The policy advises on how this exercise should be carried out, including requiring that the dwelling to be appropriately marketed for a suitable period and at a discounted price, which the Council suggests should normally be 35% of open market value. Although the Framework extends the definition to include workers employed in other rural enterprises in addition to agriculture or forestry, I find the Council's policy to be not inconsistent or in conflict with the wider objectives of the Framework set out above and I give it full weight.

Reasons

8. The appeal property no longer has links with the adjoining agricultural land or buildings other than through land ownership. Although currently vacant, it is understood to have been let to persons unconnected with agriculture for a short period. The Council does not contest that the nature of the appellant's enterprise comprising a large mixed arable and livestock enterprise has no further need for a tied property of this kind. The issue before me therefore turns on whether there is a continuing need for its retention for occupation by a

- person solely or mainly working or last working, on a rural enterprise in the locality.
9. In establishing whether or not there is a need for rural enterprise dwellings in the area, the Council provided a long list of planning permissions that have been granted for agricultural worker's dwellings in the District. However, in the absence of details of the individual cases presented, I am not persuaded that a raw list of permissions in such a deeply rural area necessarily demonstrates a significant level of local demand. Neither was the Council able to identify the number of dwellings that have been permitted in the immediate local area. As the Parish Council Chairman pointed out, only a handful of farms now operate within the Charlton Horethorne and adjoining villages suggesting that farms are continually amalgamating into larger single holdings at least in this particular locality.
 10. In any event, the appellant argued that, in his experience, many of the agricultural dwellings that have been permitted in recent times have been for bespoke dwellings meeting the specific needs of particular holdings, most usually within or adjoining existing farm complexes. This is rather different to what the appellant is offering in this case, which is essentially a speculative offer notwithstanding the limitations set by the occupancy condition. I would accept the limited appeal of Gunville Farm Bungalow and the effects that this is having on marketing and demand.
 11. The lack of demand is further evidenced by the appellant's marketing exercise. At the Hearing, both parties agreed that the method of marketing by a single agent to a wide audience, including specialist agricultural sector publications was appropriate and acceptable. Based on the information provided, I find no reason to disagree. Gunville Farm Bungalow has been marketed for sale by a local estate agent who is highly experienced in the disposal of agricultural dwellings having marketed ten out of the twelve properties that have been sold in the South Somerset/West Dorset area over the last three years and who explained to the Hearing that potential purchasers are vetted for compliance with the AOC by the agent to avoid speculative interest from persons unconnected with agriculture or appropriate rural enterprises. The agent has advertised the appeal property on several local and national property websites, in the local press and from their ten area offices as well as in London.
 12. The parties also agree that the property has been marketed for an appropriate amount of time. Gunville Farm Bungalow was first advertised for sale at a guide price of £300,000 in April 2015 against a market valuation of £375,000. Despite three viewings, no offers were made and the property was dropped to £285,000 in October 2016. No viewings took place nor were any offers received during the six months that followed. The property was then reduced to £250,000 in April 2017 which generated a further five viewings but no offers. Whilst the Council confirms that the lowest price represents a reasonable asking price, it believes that the property has been marketed at this price for an insufficient period of time to robustly demonstrate that there is a lack of demand. I am not persuaded that the marketing carried out between April 2015 and October 2017 at the higher asking prices should be discounted given that the marketing was based on a guide price rather than either 'offers above' or at the 'asking price', which the appellant explains are other forms of marketing used by estate agents both locally and nationally. I accept the appellant's arguments that offers could have been made below, at or above the

aspirational guide price. The compelling point is that there have been no offers made whatsoever during the two and a half year period at any price realistic or not.

13. The Council offered no contrary evidence in terms of valuation of the appeal property or whether the 35% reduction suggested in its policy is supported by evidence. The appellant however provided a list of properties with AOCs that have been sold in the West Dorset/South Somerset area since January 2013. The average discount applied to those properties as a percentage below their unencumbered open market value amounted to 12%, which indicates that a demand existed for those properties. However, despite a discount of over 35% being applied to the appeal property in recent months, no firm interest has been generated despite several viewings of the property having taken place.
14. Whilst the Council made the contrary argument that such sales demonstrates a relatively buoyant market which would equate to there being an ongoing need that should be further tested, I am satisfied that the appeal property offered with no land or buildings has very limited appeal and that the marketing exercise has demonstrated the property's relative unattractiveness to meeting the needs of agricultural workers in this area. I agree with the appellant that further marketing is unlikely to generate additional demand and that the market has been sufficiently and appropriately tested.
15. Based on the evidence presented in this case, I therefore conclude that there is no longer a continuing need for the occupation of Gunville Farm Bungalow to be restricted. Thus, condition 4 has outlived its usefulness, and its removal would not prejudice the need for agricultural worker's accommodation in the area or accommodation for those employed in appropriate locally based rural enterprises. As a result, there is no significant conflict with LP Policy HG10 or with the aims and objectives of the Framework which seeks to restrict isolated dwellings in the countryside.

Other matters

16. In reaching my conclusion against the main issue, I have also taken into account the concerns raised by the Parish Council and its Chairman who represented the Parish at the Hearing, including the isolated nature of the property and the lack of footways and street lighting leading down into the village. However, these problems would exist for any occupiers of this property with or without the AOC.

Conditions

17. I have considered the conditions relating to planning permission reference 842232 in the light of advice contained in the Government's Planning Practice Guidance. The guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have been discharged.
18. The Council accepts that Conditions No. 1 (details of materials), No. 3 (details of garage materials), No. 5 (details and implementation of landscaping) and No. 6 (specification of approved drawings) have either been discharged or are no longer relevant. I agree with this view.

19. In the interests of highway safety I would concur with the Council that it would still be necessary to ensure that the parking provision that exists at the site be retained for such purposes hereinafter as originally intended by the original permission. Condition No. 2 relating to the provision of on-site parking is therefore reintroduced in an amended form to reflect this requirement. The Council accepts that the other conditions imposed are no longer subsisting or capable of taking effect.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed and Condition No. 4 is therefore removed.

Gareth W Thomas

INSPECTOR

APPEARANCES:

FOR THE APPELLANTS:

Matthew Kedrick - Grassroots Planning Ltd
Andrew Tuffin - Symonds and Sampson Ltd
Nathan Hopkins - Owner

FOR THE COUNCIL:

Dominic Heath-Coleman - Planning Officer, South Somerset District Council

INTERESTED PARTIES:

Michael Hutchings - Chairman, Charlton Horethorne Parish Council

DOCUMENTS SUBMITTED AT THE HEARING:

BY THE APPELLANT:

1. Statement of Common Ground
2. Marketing summary of appeal property
3. Table of recently sold properties the subject of AOC together with sales particulars

BY THE COUNCIL:

4. Copy of original planning permission decision notice Reference 842232
5. Extract from Council records of recent planning decisions for agricultural and equestrian proposals.