
Appeal Decision

Site visit made on 28 February 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 27 April 2017

Appeal Ref: APP/R3325/W/16/3161497

**The Dutch Barn, Nenmead Farm, Field Road, High Ham, Langport,
Somerset TA10 9DQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs G Morris against the decision of South Somerset District Council.
 - The application Ref 16/03062/S73A, dated 12 July 2016, was refused by notice dated 28 September 2016.
 - The application sought planning permission for the conversion of a Dutch barn to holiday let, extension to stable building and formation of a manege without complying with conditions attached to planning permission Ref 13/02211/FUL, dated 17 July 2013.
 - The conditions in dispute are Nos 3 and 5 which state that:
 - 3) The dwelling hereby approved shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of owners/occupiers of individual units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
 - 5) The stable extension and manege hereby approved shall only be used for the private and domestic needs of the occupiers of the residential property known as Nenmead Farm and by the occupiers of the tourist accommodation hereby approved.
 - The reasons given for the conditions are:
 - 3) To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation in accordance with policies ST3 and ME10 of the South Somerset Local Plan and the aims and provisions of the National Planning Policy Framework.
 - 5) In the interests of highway safety and sustainability and in accordance with policies ST3 and ST5 of the South Somerset Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a Dutch barn to holiday let, extension to stable building and formation of a manege at The Dutch Barn, Nenmead Farm, Field Road, High Ham, Langport, Somerset TA10 9DQ in accordance with the application Ref 16/03062/S73A made on the 12 July 2016 without complying with conditions Nos 3 and 5 as set out in planning permission No 13/02211/FUL granted on 17 July 2013 by South Somerset District Council, but otherwise subject to the conditions set out in the attached Schedule to this decision.
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Preliminary Matters

2. The existing building at the appeal site is a Dutch barn (the barn) which has been converted for residential use on a holiday only basis. The building is already occupied by members of the appellants' family as their main place of residence, therefore in breach of condition 3 of planning permission Ref 13/02211/FUL.
3. The appellants suggest an alternative condition that would allow occupancy for holiday let purposes or as an annex ancillary to the residential use of Nenmead Farm (the farmhouse). I have considered this matter in light of the case of *Uttlesford District Council v Secretary of State for the Environment and White (1992)* which was drawn to my attention by the appellants. I have also taken into account the advice in the Council's 'Residential Annexes – A Guide for Householders'.
4. The barn is a substantial 2 storey structure separated from the farmhouse by an area of hard surfaced yard which also enables access to a garage attached to the side of the farmhouse. The barn has first floor windows looking over this shared area and towards the side of the farmhouse and its garden. This area is closely related to both buildings, is not separated out by any means of enclosure and is shown partly for parking for occupiers of the barn on the plan previously approved. The properties share the main access and although there is a potential additional access via Taunton Lane alongside the site the appellants state that this is not and could not be used.
5. The main parties agree that the barn is located outside of the domestic curtilage of the farmhouse. However, it is close to the farmhouse as well as other large structures and the previously approved manege that continue to be used as part of the farm as a whole. The barn has a small garden close to an orchard and areas used for keeping animals. This garden and rear windows of the barn are in clear view from these other areas within the same ownership as the farmhouse. Even if the alternative access were possible to use, the barn would retain its close relationship to activities and buildings within the farm.
6. The barn is viewed from the main road behind the farmhouse and within the complex of other farm buildings. Whilst the overall size and mass of the building is not clearly visually subservient to the farmhouse, it appears in the context of being closely related to and amongst other farm buildings and activities which reflects its former use as part of the farm.
7. The barn provides a high standard accommodation which could be occupied independently but it is physically closely related to the farmhouse which also enables a close association with the occupants of the 2 buildings. The Council's report that resulted in the approval of the barn conversion refers to this close relationship. That report goes on to say that the relationship would not be acceptable between 2 independently and permanently occupied dwellings and I agree with that.
8. Although there are 5 bedrooms within the barn, use on an ancillary basis to the overall farm and farmhouse would allow flexible use of the building. At the moment any ancillary use is precluded by condition 3. Overall as a matter of fact and degree, I consider that the occupation of the barn by family members as occurs at the moment with some mutual association and shared functional

relationship between the properties can reasonably be considered as being ancillary to the farm and the farmhouse.

9. It is not clear that there has been a breach of condition 5 relating to the stable extension and manege. However, the appellants wish to alter the restriction to allow use by any occupants of the barn if a replacement for condition 3 allows broader occupation than simply tourist accommodation.

Main Issues

10. The main issues in relation to disputed condition 3 are:

- The effect of the occupation of the barn other than for holiday purposes upon travel patterns and access to services; and
- The effect of the proposed condition on the interests of the local economy.

11. The main issue in relation to disputed condition 5, is the effect of the proposed alternative condition on highway safety.

Reasons

Condition 3 - Travel patterns and access to services

12. The converted barn is located close to the side of the large farmhouse that is positioned close to the main road, Field Road that runs along the front of the site. The site is within the rural area to the south of High Ham.
13. The development plan for the area as referred to within the reasons for the disputed conditions has been superseded by the South Somerset Local Plan (2006-2028) adopted March 2015 (LP). There is no dispute between the Council and the appellant that this is a location where unrestricted housing would not normally be approved. Paragraph 5.11 of the LP confirms that other than in specified settlements all other settlements are considered to be within open countryside. The Council report relating to the original development refers to the remoteness of the site from services and facilities. I have not had my attention drawn to shops or other facilities nearby or to public transport services. This reflects what I saw at my visit and I agree that the site is within the open countryside, isolated from services and that it is necessary to impose a condition to prevent unrestricted occupation.
14. The close relationship between the occupants of the farmhouse and the barn currently leads to the sharing of some day to day tasks. This can include sharing of shopping trips. Given that the location is not close to shops, this may help reduce the impact of the occupancy by family members compared to un-related people occupying the barn even if they are on holiday. Meals and domestic tasks are also sometimes shared. Although these are personal circumstances in my view, such inter-relationships between occupants of the 2 buildings would be highly likely to occur if the barn is occupied by any closely related sets of people on an ancillary basis as a single household. If the barn is only occupied for holiday purposes, there may be less co-operation between occupants of the 2 buildings who may only be associated due to the business relationship. Holiday occupants would still need to travel by private vehicles to obtain groceries and to reach other facilities. Based upon the evidence provided and what I saw at my site visit, I consider that allowing ancillary

residential use of the barn is unlikely to have a significant effect upon vehicle movements to and from the site.

15. In relation to the main issue, the proposal to allow occupation of the barn for holiday purposes or on an ancillary basis would not have a harmful effect upon travel patterns and access to services. In these respects the proposal would not breach LP Policies SD1, SS1 and SS2.

Condition 3 - economic effect

16. The Council states that the conversion of the barn for holiday purposes was accepted due to the economic benefits. The officer report in relation to the planning application for the original development refers to the site being within an area where development is strictly controlled. The policy support for tourist accommodation was considered to outweigh any harm from growth in the need to travel.
17. However, I have no evidence about the significance of the economic benefit of the barn for the appellants or in the wider community. When not occupied for holiday purposes, the barn would not generate income from that source for the appellant. However with close family living within the building there are likely to be other financial efficiencies by having a large household living together and also to the farm by having family on hand to help rather than having to employ staff. The proposed condition would still allow for the use for holiday purposes at some point in the future when current circumstances change.
18. In relation to the second main issue, the proposed condition would not have a harmful effect of the on the interests of the local economy. This would not contravene LP Policy SD1 or the support for a prosperous rural economy as set out in paragraph 28 of the Framework.

Condition 5 – highway safety

19. The reason for limiting the use of the stable extension and manege through condition 5 is to prevent use other than for the domestic needs of the occupiers of the site. The reason relates to highway safety and also 'sustainability' which I take to mean the vehicle movements due to the location if used on a different basis. It logically follows that if I impose an alternative to condition 3 regarding occupancy of the Barn, then I should also make an alternative condition to No 5 fall into line with that change. To do so would continue to retain the control deemed necessary when the Council originally approved the conversion of the barn.
20. In relation to this main issue, the proposed alternative condition would not have a harmful effect on highway safety. This would comply with LP Policy TA5 and the Framework which advises at paragraph 32 that decisions should take account of whether safe access can be provided.

Conditions

21. As I have limited information before me about the status of the other conditions imposed on the original planning permission, I shall impose all of those unless they are clearly no longer relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

22. In addition, the Council suggests a condition referring back to the approved site plan for the conversion of the barn relating to parking and turning. This is the same as condition 4 on the original planning permission and I will re-impose that.
23. I have attached a condition to restrict the occupancy of the barn and this takes a similar form as the alternative suggested by the appellants. It is unnecessary and unreasonable to include an additional requirement that the site is not fragmented. There is no such restriction at the moment. If the site is subsequently fragmented, it is less likely that the barn could be occupied on an ancillary basis and could only then be lawfully used as holiday accommodation. I have included the requirement for a register of occupants similar to that required within the original condition.
24. I have been provided with 2 alternative forms of wording for the condition to replace condition 5. I have used slightly simplified wording which will restrict the use of the manege and stable extension to residential occupiers of the Nenmead Farm, including the barn.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 441(00)03A, 441(00)02, 441(00)04A and 441(00)05 received 10 October 2012 as amended by the agent's e-mail received 21 May 2013.
- 2) The building hereby permitted shall not be used as a separate dwelling house. It shall not be occupied at any time other than for holiday let purposes or as a residential annexe as ancillary accommodation to the residential use of the dwelling known as Nenmead Farm, Field Road, High Ham. The owners/operators shall maintain an up-to-date register of the names of owners/occupiers and of their main home addresses.
- 3) The area allocated for parking and turning on the submitted plan 441(00)03A, received 21 May 2013, shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
- 4) The stable extension and manege hereby approved shall only be used for the private and domestic needs of the residential occupiers of Nenmead Farm and by the occupiers of the barn hereby approved for conversion.
- 5) All planting comprised in the submitted landscaping scheme as shown on the plan 441(00)03A received 21 May 2013, and detailed in the agent's e-mails received 04 and 08 July 2013 shall be carried out in the first planting and seeding season following the occupation of the buildings or first use of the manege, or the completion of the development, whichever is the sooner; and

any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

- 6) No work shall be carried out on site until particulars of the following have been submitted to and approved in writing by the Local Planning Authority:
- a. details of materials and finishes (including the provision of samples where appropriate) to be used for the external walls and roofs;
 - b. details of the recessing, materials and finish (including the provision of samples where appropriate) to be used for all new windows (including any rooflights) and doors;
 - c. details of all hardstanding and boundaries
 - d. details of the rainwater goods and eaves and fascia details and treatment.
- Once approved such details shall be fully implemented unless agreed otherwise in writing by the Local Planning Authority.