
Appeal Decision

Site visit made on 10 July 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 28 July 2017

Appeal Ref: APP/Y9507/W/17/3172206

Foxhole Farm, Seaford Road, Newhaven BN9 0EE

- 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 Gary Lownds against the decision of South Downs National Park Authority.
 - The application Ref SDNP/17/00052/CND, dated 5 January 2017, was refused by notice dated 22 February 2017.
 - The application sought planning permission for erection of a dwelling for equestrian worker and relocation of manege without complying with a condition attached to planning permission Ref SDNP/13/04982/FUL, dated 3 February 2014.
 - The condition in dispute is No 1 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the equestrian livery business at Foxhole Farm Stables and occupying the area edged in blue on the 1:2500 location plan hereby approved, or a widow or widower of such a person or any resident dependants.
 - The reason given for the condition is: To ensure that the dwelling remains available to meet the identified need for which consent has been granted and to prevent unnecessary development in the countryside having regard to Policy RES6 of the Lewes Local Plan and PPS7.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission ref SDNP/13/04982/FUL (the original permission) has been implemented. The appellant sought permission to vary the terms of condition 1 by deleting the requirement for the occupation of the dwelling to be tied to the land edged in blue on the 1:2500 location plan.
3. The main issues are whether condition 1 is reasonable and necessary to retain the tied occupation of the dwelling to the land relating to the existing equestrian livery business and the effect of the proposal upon the character and appearance of the South Downs National Park (SDNP) countryside.

Reasons

4. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to avoid new isolated homes in the countryside unless there are special circumstances for a new dwelling. The Council indicates that the functional

- need and financial visibility of the equestrian business provided the special circumstances to granting the original planning permission as a need had been demonstrated for a rural worker to live permanently at Foxhole Farm Stables.
5. The appellant indicates that he needs to raise additional funding to complete the build of the dwelling and poses two options that would facilitate this. He could reclaim VAT on the new build if the dwelling were independent from the business and use the money to complete the dwelling. Alternatively he could secure a mortgage but he has been advised that it would be easier to find a lender on just the dwelling alone rather than the dwelling and associated land as a lender would recognise this as being a business. Whilst I recognise a business loan may be more onerous this cannot be a determining factor in the regulation of the use of land and buildings.
 6. The appellant asserts that the dwelling is an integral part of the equestrian livery located within the livery complex and the amended condition would retain the occupancy of the dwelling by an equestrian worker. The appellant indicates that all the land edged in blue would be kept within his control and would not be sold off, to ensure the livery business remains economically viable.
 7. The appellant has referred me to an appeal decision at Hill House Farm, Haywards Heath¹ in which an agricultural occupancy condition was imposed to a dwelling to be occupied by a person employed in agriculture in the locality. I have no information as to the reasoning behind the justification of the planning permission and the wording of the condition or the nature of the agricultural land or holding. All of which may have a bearing on the wording of that condition.
 8. In this case, the land edged in blue was integral to the planning permission as this land comprises the equestrian livery business at Foxhole Farm Stables at which the occupier of the new dwelling is employed.
 9. The Council's agricultural adviser notes that "*The enterprise involves the care and welfare of several horses for which there is a continuing need for the owner/principal worked to live on site*". Amending the condition to delete the retention of the blue land would fail to ensure that the dwelling would remain permanently linked to the subject land holding or vice versa. Therefore, the issue as I see it is that the dwelling and the equestrian land within the blue area are intrinsically linked. Furthermore, the detachment of this land, or any part of it, from the equestrian holding would potentially undermine the equestrian enterprise at Foxhole Farm Stables and would circumvent the special circumstances that justified the dwelling at Foxhole Farm Stables in the first instance. Although the appellant advises that it is not his intention to sell off the land as it is required to make his business viable, the proposed variation to the condition would not prevent this from taking place. It therefore remains important to retain the tie between the equestrian livery land edged in blue and the dwelling and its occupation by a person employed at the livery.
 10. The Council is also concerned that the fragmentation of the land could lead to alternative land use or uses and the pressure for other buildings or structures to support those alternative uses. However, there is no substantive evidence before me that would demonstrate that any such development would take

¹ Council ref SDNP/17/03101/FUL

place, therefore I am not persuaded that the fragmentation of the land would result in further built development taking place or that it would compromise the countryside character of the National Park's landscape. In any event, the planning system embodies control in terms of the need for planning permission, approval or consent to be obtained for structures where necessary.

11. The Council has highlighted a Building Regulations inspection carried out by the Council in May this year which indicated the electrics and plumbing had been installed and the dwelling was very near completion. I observed that the dwelling is plastered and painted internally, kitchen and bathroom furniture has been installed but some sockets remained to be fitted and the grounds and landscaping were unfinished. Notwithstanding this, the appellant has provided a list of outstanding works and I accept these further works are necessary to make the dwelling habitable. Whilst I sympathise with the personal financial circumstances of the appellant, this is not pertinent to the planning issues before me and the appellant's particular circumstances are not a determining factor that would justify the amendment to the original planning permission.
12. I therefore conclude that the evidence before me does not support the deletion from condition 1 of the requirement for the occupation of the dwelling to be tied to the land edged in blue on the 1:2500 location plan.
13. Whilst I have not found that harm would occur to the character and appearance of the SDNP countryside, I conclude, for the reasons given above, that the condition with its current wording is reasonable and necessary to retain the tied equestrian livery use of the land to the dwelling and its occupation. The deletion and severing of the equestrian land would not be within the spirit of paragraph 55 of the Framework that seeks to promote sustainable development in rural areas. Furthermore, the proposal would conflict with Policy CT1 of the Lewes District Local Plan and Policy GP50 of The South Downs Partnership Management Plan that seek to contain development within existing planning boundaries and that require housing in the National Park to be closely matched to the social and economic needs of local people, amongst other matters. I do not, however, find conflict with Policy CP10 of the Lewes District Local Plan Part 1 Joint Core Strategy that seeks to protect the natural environment and landscape.

Other Matters

14. The appellant has referred to the Neighbourhood Plan Act and noted this may have implications for planning conditions but I have not been directed to any specific aspect of this Act or provided with any explanation as to how it might impact this appeal. I therefore attach limited weight to this.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR