



Appeal Decision

Site visit made on 13 January 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Appeal Ref: APP/Y2810/W/19/3239653

Foxhill Farm, Sywell Road, Holcot, Northamptonshire NN6 9SN

- 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 & Mrs M Webb against the decision of Daventry District Council.
 - The application Ref DA/2019/0502, dated 10 June 2019, was refused by notice dated 15 August 2019.
 - The application sought planning permission for the removal of condition 5 of DA/2002/0651 restricting residential occupancy to ancillary to the Foxhill Farm Equestrian Centre only without complying with a condition attached to planning permission Ref DA/2002/0651, dated 29 July 2002.
 - The condition in dispute is No 5 which states that: The residential unit hereby permitted shall be used for purposes ancillary to the Foxhill Farm Equestrian Centre only.
 - The reason given for the condition is: The permanent residential unit has been justified on the basis of the functional and financial requirements of the Foxhill Farm Equestrian Centre only. To permit an unrestricted dwelling on this site would be contrary to the policies of the Development Plan which seek to severely restrict development in the open countryside.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use and alteration to redundant farm buildings to convert to residential unit for equestrian centre at Foxhill Farm, Sywell Road, Holcot, Northamptonshire NN6 9SN in accordance with the application Ref DA/2019/0502, dated 10 June 2019, without compliance with condition number 5 previously imposed on planning permission Ref DA/2002/0651 dated 4 September 2002.

Procedural Matter

2. The Council has drawn my attention to the emerging Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029 (the emerging Plan) and in particular Policies SP1 and RA6.
3. From the evidence before me the emerging Plan has had its examination in public and the Inspectors report has been received. At the time of this decision, the emerging Plan had not been adopted, but the Council has indicated that they intend to adopt the emerging plan in February 2020.

4. Whilst I cannot give these policies full weight in my consideration of the appeal proposal, given the very advanced stage of the emerging Plan, I consider that very significant weight should be attached to them.

Main Issue

5. The main issue is whether the condition is necessary having particular regard for its stated purpose of restricting the occupancy of the dwelling to being an ancillary use for Foxhill Farm Equestrian Centre.

Reasons

6. The appeal property is situated to the south-east of the village of Holcot and is accessed along a single track driveway from Sywell Road. As I understand it, the dwelling was created from the conversion of redundant farm buildings following the granting of planning permission in 1998¹. Since then, there have been several applications which have varied this original permission².
7. The wording of the occupancy restriction condition is very specific to Foxhill Farm Equestrian Centre and does not provide any flexibility which one would expect in relation to persons last working at the farm or a widow or widower or surviving civil partner of such a person, and to any resident dependants. Furthermore, it does not provide any flexibility in relation to whether any other rural workers could occupy the building in the future. In this respect, the current condition does not accord with the current expectations for such an occupancy restriction, including that advocated in the National Planning Policy Framework (the Framework) and the associated National Planning Practice Guidance.
8. To that end, I find that there is a clear justification to amend the condition to provide for a more flexible approach so that other rural workers in the locality could occupy the dwelling in the future.
9. Notwithstanding the above, the Appellant has also set out that had the original development been considered today, with current policies in mind, there would not be a requirement for any occupancy restriction. It is also set out that given the changes in circumstances of the business there is no longer the justification for such a condition.
10. The adopted Development Plan policies for Daventry seek to ensure that conversions of rural buildings to residential properties are justified on the basis of a rural need. However, and more significantly, emerging Policy RA6 also sets out that the re-use of redundant or disused buildings that lead to an enhancement to the immediate setting will be supported.
11. From the original planning permission, in its description, it is clear that the Council considered that the buildings were redundant at that time. I consider that it is highly likely that the overall development would have given rise to some improvements to the immediate setting of such redundant buildings.
12. Therefore, had this policy applied at the time of the original decision, it is likely that permission would have been granted without such an occupancy tie. It is also significant that paragraph 79 of the Framework also has a similar supporting statement.

¹ Original planning permission reference DA/1998/0454 dated 29 July 1998

² Including references DA/2002/0147, DA/2002/0651 and DA/2005/1053

13. Whilst I recognise that the application before me is not the original development, the principles of that equally apply to an application to remove an occupancy condition. In this respect, I find that the thrust of both national planning policy and the emerging Plan support the proposal before me.
14. Taking all of the above into account, I find that the removal of the occupancy condition would be acceptable and would accord with the overall aims and objectives of the Framework, and the emerging Plan.
15. In coming to the above views, I acknowledge that the proposal conflicts with Policy HS24 of the Daventry District Local Plan (1997) (DDLDP) which does not allow for residential development in the open countryside (including conversions) unless it would be essential for the purposes of agriculture or forestry. Similarly, Policy GN1 of the DDLDP seeks to severely restrain development in the open countryside.
16. However, given these policies are far more restrictive than the Framework, in accordance with paragraph 213, I cannot give these policies full weight in my consideration of this appeal.
17. For the above reasons the removal of the occupancy condition from permission DA/2002/0651 would accord with Policy R1 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (2014) and Policies SP1 and RA6 of the emerging Plan which amongst other matters seek to support the re-use of buildings in rural areas that lead to an enhancement to their immediate setting. It would also accord with the overarching aims of the Framework.

Conditions

18. As noted above, there are several planning permissions which relate to the appeal dwelling. Permission DA/2005/1053 states that conditions 1, 2 and 3 of permission DA/2002/0651 remain in force. However, condition 1 is the standard time limit condition, condition 2 relates to samples of the proposed materials and condition 3 relates to improvements to the access road being done before the building is first used. Bearing in mind that the development has already been carried out I find that none of these conditions are now necessary.
19. Given that condition 4 has already been removed by permission DA/2005/1053 and that there are no other conditions on the substantive planning permission, I consider that it is not necessary for me to impose any conditions as a result of this appeal.

Conclusion

20. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR