



Appeal Decision

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/C2708/W/20/3246437

New Laithe Cottage, Church Road, Thornton in Craven, Skipton BD23 3TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a 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 previous details were approved.
 - The appeal is made by Susan Wallace against the decision of Craven District Council.
 - The application Ref 2019/20842/VAR, dated 6 August 2019, was refused by notice dated 4 October 2019.
 - The application sought approval of reserved matters for erection of single storey agricultural worker's dwelling without complying with a condition attached to the reserved matters approval Ref 5/69/108/A, dated 10 February 1992.
 - The condition in dispute is No 4 which states that: The occupation of the dwelling shall be limited to a person 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, or a dependant of such a person residing with him or her, or a widow or widower of such a person.
 - The reason given for the condition is: The proposed dwelling has been permitted only in recognition of the need for a dwelling for an agricultural or forestry worker. A dwelling on this site would not otherwise have been permitted.
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Decision

1. The appeal is allowed and reserved matters are approved for erection of single storey agricultural worker's dwelling at New Laithe Cottage, Church Road, Thornton in Craven, Skipton BD23 3TS, in accordance with the application Ref 2019/20842/VAR, dated 6 August 2019, without compliance with Conditions 1, 3 and 4 previously imposed on the reserved matters approval Ref 5/69/108/A, dated 10 February 1992, but subject to conditions of the attached schedule.

Procedural Matter

2. In response to travel restrictions in place due to the COVID-19 pandemic, and given the nature of the issues arising in the appeal, I consider that a determination can be made without the need for a physical site visit but based on the information put to me by the main parties. Both the appellant and the Council have been given an opportunity to comment on this approach and I have taken the response received into account.

Reasons

3. The appeal relates to a detached dwelling located in the open countryside outside Thornton in Craven. Outline planning permission was granted on 20 May 1991 for erection of a dwellinghouse for agricultural worker's occupation, under Council Ref 5/69/108. An application to approve reserved

matters pursuant to the outline permission was granted on 10 February 1992 under Council Ref 5/69/108/A.

4. The refused application now the subject of this appeal was submitted in relation to Condition No 4 of the 1992 reserved matters approval Ref 5/69/108/A, as set out in Section 4 of the application form and subsequently publicised by the Council. This condition restricted the occupation of the dwelling to a person solely or mainly employed in agriculture. The condition at issue is identical to Condition No 3 of the outline permission. However, the appeal before me does not seek removal of this condition, which would be unaffected by my decision on this appeal and would remain in force.
5. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The disputed condition is identical to one attached to the related outline permission. Both conditions relate to the same development and impose the same limitation on occupancy. By the simple fact of duplication, one of the conditions is unnecessary and so fails one of the tests set out in Paragraph 55.
6. However, the Planning Practice Guidance (Paragraph: 025 Reference ID: 21a-025-20140306) also states that conditions should only be attached to the approval of reserved matters where they relate to one of the reserved matters being considered. The disputed condition does not relate to any of the five reserved matters. It is unnecessary for this reason and, therefore, the condition should be removed from the reserved matters approval.
7. My finding in this respect is determinative. Therefore, it is not necessary for me to consider the merits of the other issues raised in this case. However, in allowing the appeal, a new reserved matters approval would be created standing alongside the original and it is necessary to consider whether the other conditions originally imposed should be re-imposed.
8. I shall not re-impose Condition No 1 as it relates to the time limit for implementation, which has long expired and cannot in any event be altered through an application under Section 73. I shall re-impose Condition No 2 which refers to the plans to which the approval relates. Condition No 3 removes permitted development rights for various forms of development, duplicating Condition No 4 of the outline permission. For the same reasons as the disputed condition, it is not necessary and should be removed.
9. I am satisfied that conditions Nos 5, 6, 7, 8 and 9 relate to reserved matters of either access or appearance. Though they relate to the construction of the dwelling and may well have been addressed, I have no information as to whether the requirements of these conditions have in fact been discharged, and so I shall re-impose them. In the event that the conditions have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

10. For these reasons, I conclude that the appeal should be allowed.

K Savage INSPECTOR

SCHEDULE OF CONDITIONS

- 1) This grant of consent shall extend only to the amended plans received on the 29th of January 1992.
- 2) The dwelling shall be faced in second hand weather local natural stone on all elevations. The roof shall be covered in natural grey stone slates.
- 3) No work shall commence on the external walling of the proposed building until such time as a sample panel, of at least 2m² area, showing the type of walling to be used and the style and colour of its pointing has been constructed on the site and inspected and approved in writing by the District Planning Authority.
- 4) The development hereby approved shall not commence until such time as a sample of the proposed external roofing material has been submitted to and approved by the District Planning Authority.
- 5) The access to the site shall be surfaced in tarmacadam for the first 5 metres from its junction with the County Highway.
- 6) Prior to the commencement of the development hereby permitted the crossing of the highway verge and/or footpath shall be constructed in accordance with the specification of the Highway Authority to the satisfaction of the District Planning Authority.

END OF SCHEDULE