



Appeal Decision

Site visit made on 26 October 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/Y9507/W/20/3251448

Penn House, Wheely Down Forge, Wheely Down Farm Lane, Warnford, Southampton, Hampshire SO32 3LG

- 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 carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr William Normandale against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/03374/CND, dated 2 July 2019, was refused by notice dated 24 October 2019.
 - The application sought planning permission for 'Variation of condition 2 and 3 of extant planning permission under reference 02/01236/FUL' without complying with conditions attached to planning permission Ref SDNP/17/00996/CND, dated 25 April 2017.
 - The conditions in dispute are Nos 2 and 3 which state that:
(2) *"The permission hereby granted shall ensure for the benefit of Mr William Normandale for so long as he continues to operate Wheely Down Forge and shall not be for the benefit of the land".*
(3) *"The residential annexe (now known as Penn House) shall be occupied only for the purposes of accommodation students or workers employed at Wheely Down Forge and shall not be used as an independent dwellinghouse".*
 - The reasons given for the conditions are:
(2) *"The development is of a type not normally permitted in the countryside and is acceptable only for the purposes of addressing the special needs of the applicant".*
(3) *"The development is of a type not normally permitted in the countryside and is acceptable only in the interests of assisting the continued successful functioning of the existing established rural craft business as a specialist skill centre offering training opportunities".*
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing storage building to residential annexe for forge workers with contingent internal and minor external alterations at Penn House, Wheely Down Forge, Wheely Down Farm Lane, Warnford, Southampton, Hampshire SO32 3LG in accordance with the application Ref SDNP/19/03374/CND, dated 2 July 2019, without compliance with conditions previously imposed on planning permission Ref SDNP/17/00996/CND, dated 25 April 2017 and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 1:1250 scale Site Location Plan.

Procedural Matters

2. The original planning permission ref 02/01236/FUL granted permission for 'change of use of existing storage building to residential annexe for forge workers with contingent internal and minor external alterations'. Notwithstanding the description of development on the decision notice of the previously granted permission ref SDNP/17/00996/CND, dated 25 April 2017, the effect of that decision will have been to create a second permission. The decision, the subject of this appeal, relates to that second permission.
3. However, the description of development on that second permission refers only to 'Variation of condition 2 and 3 of extant planning permission under reference 02/01236/FUL'. Therefore, the description of development in my formal decision has been taken from the description of development on the original planning permission ref 02/01236/FUL.

Background and Main Issue

4. Planning permission was granted in 2017 for the variation of conditions 2 and 3 of extant planning permission Ref: 02/01236/FUL. That permission was subject to conditions. The conditions in dispute tie the planning permission to the appellant and not the land (condition 2) and tie the occupancy of Penn House to Wheely Down Forge (condition 3). For the reasons addressed below, the appellant now wishes to remove the conditions so that Penn House is not tied to Wheely Down Forge and so, in effect, would become an open market dwelling in the countryside.
5. I have no reason to disagree with the Council that condition 2 is not necessary in so far as it ties the planning permission to the appellant and not the land, so I shall remove condition 2.
6. The main issue is, therefore, whether condition 3 is necessary having regard to the Council's strategy for development in the countryside.

Reasons

7. The appeal site is located within the defined countryside and the South Downs National Park (SDNP). The purposes of the SDNP are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area; and, to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. The SDNP Authority has a duty when carrying out the purposes to seek to foster the economic and social well-being of the local communities within the National Park.
8. The site comprises Wheely Down Forge, an internationally respected rural enterprise, other buildings and a residential property 'Penn House' which is occupied by the appellant, the current manager of Wheely Down Forge, and his family.
9. The appellant is required to have an on-site presence for security reasons. However, the spatial needs of the current manager's young family cannot be met by Penn House in its existing configuration. The appellant may therefore have to move away from the site if he is unable to raise funds against Penn House to allow the property to be extended. If this were to happen it may result in the business at Wheely Down Forge not being able to continue in its present form and this would undoubtedly have a negative impact on the rural

economy of the SDNP. The occupancy of Penn House is tied inextricably to Wheely Down Forge and so is restricting the ability of the appellant to raise funds to allow the property to be extended.

10. Policy SD25 of the South Downs Local Plan 2014-33 (2019) (SDLP) lists the sustainable settlements in the National Park where the principle of development will be supported subject to specific criteria being met. There is an indication that proposals for new housing in the named sustainable settlements will be supported, whereas development in the countryside will be restricted to that which has an essential need to be located there.
11. Penn House is already a dwelling, albeit a tied one, and has been in occupation for around 16 years, so the removal of condition 3 would not in itself create a dwelling in the SDNP. Furthermore, at present, there is an essential need for the residential accommodation to serve the forge business due to the requirement for the appellant to have an on-site presence. The removal of condition 3 would allow the appellant to raise funds, extend the property and so continue to serve the forge business. Thus, even though the property would no longer be tied to Wheely Down Forge, it would still nonetheless help support the rural economy by virtue of providing essential residential accommodation for the appellant and his family as part of the internationally respected rural enterprise.
12. In terms of the building itself, the removal of condition 3 would not result in any physical change and so there would be no visual impact. Thus, the natural beauty, wildlife and cultural heritage of the SDNP would be conserved and so its interests and purposes would not be harmed. It is acknowledged that if, following the removal of condition 3, the forge business was to cease trading, Penn House would remain as an open market dwelling in the countryside. However, even if this were to happen, it would still not result in a physical change to the property and so no visual impact would occur and hence no harm would be caused to the purposes of the SDNP.
13. The removal of condition 3 would result in an open market dwelling in the countryside. However, in this case, there is justification to remove condition 3 because at present there is an essential need for Penn House and there would be undoubted negative impact on the rural economy of the SDNP should the appellant and his family have to move away from Wheely Down Forge. Thus, in this case, these factors represent exceptional circumstances in the context of Policy SD25. Moreover, the proposal would conserve the special qualities of the SDNP which includes its natural beauty, wildlife and cultural heritage.
14. Consequently, for the reasons outlined above, the proposed removal of condition 3 would not be at odds with Policy SD25 of the SDLP and so would not conflict with the development strategy for the SDNP.

Conditions

15. The wording of condition 1 set out above is based on that suggested by the Council. The appellant was given the opportunity to comment.
16. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 (the Act) should also restate the conditions imposed on earlier permissions that continue to have effect. However, it is not

necessary to impose a condition limiting the time for commencement, because the original development has already begun. A condition is required to ensure that the development is carried out in accordance with the approved plan for the reason of certainty.

Conclusion

17. For the reasons given above the removal of conditions 2 and 3 would be acceptable and the proposal would not be contrary to the development plan. Accordingly, the appeal is therefore allowed. In accordance with section 73(2)(a) of the Act I have granted a new planning permission without the disputed conditions.

Andrew Bremford

INSPECTOR