



Appeal Decision

Site visit made on 6 January 2021

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Appeal Ref: APP/K1128/C/20/3257607

Land known as Moul Hill Barn, Salcombe TQ8 8LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act) by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Nichola Murray against an enforcement notice issued by South Hams District Council.
- The enforcement notice was issued on 15 July 2020.
- The breach of planning control alleged in the notice is failure to comply with conditions Nos 2 and 6 of a planning permission Ref APP/K1128/W/18/3210630 granted on 27 February 2019.
- The development to which the permission relates is demolition and replacement of camping barn without complying with a condition attached to planning permission Ref 41/04291/14/F 14 April 2014.
- The conditions in question are Nos 2 and 6 which state that:
 - 2) *The development hereby permitted shall not be used otherwise than as a camping barn for the provision of short let holiday accommodation. The building shall not be occupied as a permanent dwelling and shall not be occupied by any person for a period exceeding 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.*
 - 6) *The camping barn hereby permitted shall be demolished and all materials resulting from the demolition shall be removed within 56 days of the date of failure to meet any of the requirements set out in i) to iv) below:*
 - i) *Within 3 months of the date of this decision, details which include: a) a floorplan of the camping barn hereby permitted, which shows how accommodation and facilities equivalent to those shown on plan PL/PRO.FLOOR PLANS/01 approved in relation to permission 41/1855/15/VAR will be provided within it; and b) specifications of window shutters that will be installed on ground floor window openings of the camping barn hereby permitted; shall have been submitted for the written approval of the local planning authority, and these submissions shall include a timetable for implementation.*
 - ii) *If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.*
 - iii) *If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.*
 - iv) *The approved details shall have been carried out and completed in accordance with the approved timetable. Upon the implementation of the approved details as specified in this condition, they shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.*

- The notice alleges that the conditions have not been complied with in that:

The first matter

- The first matter is the failure to comply with Condition 6 of Permission APP/K1128/W/3210630 in relation to the requirements under Condition 6 (i) (a) and the further steps in Condition 6. Conditional planning permission to allow the demolition and replacement of a camping barn on the Land in accordance with the application reference 2289/17/VAR without complying with condition No 2 set out in the planning permission reference 41/1855/15/VAR was granted on the 27 February 2019 following an appeal to the Planning Inspectorate reference APP/K1128/W/3210630 (the "Permission APP/K1128/W/3210630"), but in granting permission the Inspector imposed Condition 6 in substitution Condition No. 2.

The notice then repeats the wording of Condition 6.

- Condition 6 has not been complied with.
- The accommodation and facilities provided are not equivalent to those shown on plan PL/ PL/PRO.FLOORPLANS/01 under the Permission APP/K1128/W/3210630, nor are they as required by PL/ PL/PRO.FLOORPLANS/01 under earlier consents (see below). This is clearly established by the history, including the reason why the condition was imposed as set out in the Decision Letter, and the view of the Secretary of State and the Court when the Council sought to ensure there was clarity.
- The application reference 1009/19/ARC submitted pursuant to condition 6(i) of Permission APP/K1128/W/3210630 was refused by the Council on 25 July 2019 on the grounds that the revised floor plans did not provide accommodation and facilities equivalent to the those shown on the approved floor plans to support the lawful use of the building as a camping barn.
- In the six months following the date of the refusal no appeal was made to the Secretary of State.
- A period of 56 days has elapsed since the failure to meet the requirements in Condition 6(ii) of the Permission. The existing floorplan of the building is not permitted. The building situated on the Land no longer benefits from the Permission granted on 27 February 2019 by APP/K1128/W/18/3210630.
- This is clear from the ordinary interpretation and application of this condition. Following receipt of the Planning Contravention Notice dated 22 April 2020 the Council has confirmed with the Planning Inspectorate that no appeal has received, the Inspectorate considers that the condition imposes a strict timetable and that the condition is similar to those sometimes found in Gypsy and Traveller cases.
- It is also noted that no floorplans have been provided which show accommodation and facilities equivalent to those shown on plan PL/PRO.FLOORPLANS/01 approved in relation to permission 41/1855/15/VAR and the layout of the building has not changed since the date of Permission APP/K1128/W/3210630.
- As to earlier consents. The building was built pursuant to consent 41/1855/15/VAR which varied the earlier consent 41/0429/14/F. This was established in APP/K1128/W/3210630. The varied consent 41/1855/15/VAR was built as the works varying the consent are not severable from the earlier permission in that the roof was covered with zinc rather than slate. Both 41/1855/15/VAR and 41/0429/14/F contained Condition 2 requiring the floorplans to comply with PL/PRO.FLOORPLANS/01. A Breach of Condition Notice was issued on 11 June 2018 requiring compliance with Condition 2 generally and specifically including PL/PRO.FLOORPLANS/01 at paragraph 6 (iii) and 5 (8). The floorplans do not comply with those conditions.
- The building is not compliant with those earlier Conditions.

The second matter

- The second matter is the failure to comply with Condition 6 of Permission APP/K1128/W/3210630 in relation to the requirements under Condition 6 (i) (b) and the following requirements of that Condition, as set out above. The Condition has not been complied with.
- The specification of the window shutters has not been approved by the Council. The Inspector concluded in paragraph 17 of the Decision granting Permission

APP/K1128/W/3210630 that the shutters would generally provide an agricultural appearance to the building. Condition 6(i)(b) of Permission APP/K1128/W/3210630 required the specification of the window shutters to have been submitted for the written approval of the Council and a timetable for implementation. The second reason for refusal of application reference 1009/19/ARC was because inadequate information was provided to demonstrate the shutters would be operational, how they would be fixed to the wall and their location.

- In the six months following the date of the refusal no appeal was made to the Secretary of State. A period of 56 days has elapsed since the failure to meet the requirements in Condition 6(ii) of the Permission. The building situated on the Land no longer benefits from the Permission granted on 27 February 2019 by APP/K1128/W/18/3210630.

The third matter

- The third matter is the use of the property otherwise than as a camping barn for the provision of short let holiday accommodation. The application approved in 2014 was for “demolition and replacement of camping barn” and it is being used contrary to condition as a luxury holiday let not as a camping barn. This is a failure to have complied with Condition 2 of the Permission APP/K1128/W/3210630. This is a failure to have complied with Condition 3 of 41/1855/15/VAR. It is also a failure to have complied with Condition 3 of 41/0429/14/F which was varied by 41/1855/15/VAR. A Breach of Condition Notice was issued on 11 June 2018 requiring compliance with Condition 3 generally and specifically including PL/PRO.FLOORPLANS/01 at paragraph 6 (vi) and 5 (12).
 - The requirements of the notice are:
You must: (a) Demolish the building and remove all materials resulting from the demolition from the Land It is noted that demolition of the building will address all the breaches above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition 6 attached to planning permission APP/K1128/W/3210630 granted on 27 February 2019 is discharged and the following conditions are substituted:
 - 6 The internal layout of the building shall be retained as constructed. The rooms shall not be used otherwise than for the purposes annotated on drawings ‘821.04 revision B’ and ‘821.05 revision B’ both dated July 2015. The ‘teaching and presentation room’ shall be available for those purposes at all times. At all times at least 21 beds shall be provided within the building distributed according to the following specification: - 2 x ground floor dormitories with 6 bed spaces in each (total 12 bed spaces); 1 x ground floor accessible bedroom with 2 bed spaces; 2 x first floor bedrooms with 2 bed spaces in each (total 4 bed spaces); and 3 bed-spaces on the first-floor mezzanine balcony area.
 - 7 The external wooden ground-floor window-shutters that have been installed (as existed on 6 January 2021) as approved, shall hereafter be permanently retained.
2. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for “demolition and replacement of camping barn” without complying with conditions 6 of APP/K1128/W/18/3210630 but subject to the other conditions on that

permission and to new conditions (6 and 7) as set out above.

Application for costs

3. An application for costs was made by South Hams District Council against Mrs Nichola Murray. This application is the subject of a separate Decision.

Preliminary Matters

4. Due to the national lockdown which became effective on the morning of my site visit, the procedures were changed at short notice to an 'access required site visit'. Whilst it was not necessary for me to be accompanied at all on site, due to the late notice of the changes, the Council officer did turn up at the previously arranged time. I explained that there was no need for their attendance. I went on to inspect the land and building alone. The appellant had arranged for the doors to be left unlocked to enable access.

Background

Planning history

5. There is a lengthy planning history at the appeal site. Some of this history is of relevance to the grounds of appeal and the challenge to the correctness of the notice. It is worth setting out this context.
6. Planning permission was given in 2014 (ref 41/0429/14/F – the 'original planning permission') for what was described as "the demolition and replacement of camping barn". That was approved subject to 7 planning conditions only some of which I need to bear in mind. Condition 2 required the development to strictly accord with the plans that the Council had considered. Condition 3 stated, amongst other things, that the development "shall not be used otherwise than as a camping barn for the provision of short let holiday accommodation" and also that it "shall not be occupied by any person for a period exceeding 28 days in any calendar year", along with other restrictions.
7. An application was then made to retain development carried out without complying with a condition which had been imposed on that planning permission (No 7) which related to the roof covering and that was also approved by the Council (ref 41/1855/15/VAR – 'the 2014 variation') also with conditions to similar effect. The 2014 variation approval also included a condition requiring compliance with the submitted plans and another limiting the use in the same way as the original approval.
8. In 2015, a further application (ref 2289/17/VAR) was made following the carrying out of the development without compliance with the previously approved plans. This was refused but allowed on appeal (ref APP/K1128/W/18/3210630 – 'the 2019 appeal decision'). It is conditions 2 and 6 of that appeal decision which the notice relates to. There is no need to repeat those conditions here as they are set out above in the heading. The details that had been submitted pursuant to condition 6 were considered formally by the Council (ref 1009/19/ARC) and refused.
9. That decision had also followed a permission hearing to the High Court, challenging condition 6 as imposed by the Inspector on the allowed appeal. The court refused permission for judicial review, accepting the Secretary of State's contention in defending the Inspector's decision.

10. The appellant did not appeal the Council's refusal to discharge the condition. That therefore enabled the Council to invoke the first sentence of condition 6, "the camping barn hereby permitted shall be demolished Within 56 days of the date of failure to meet any of the requirements...". That in part is what the notice in this case relies upon.
11. At this point it is also worth explaining that such a condition is often used where retrospective development is in principle acceptable but some, usually minor changes or additions, are required to make the development acceptable in planning terms and where the parties to the appeal are aware of the general nature of those changes. In a more conventional situation where the development has not commenced, that would be a matter of requiring the submission of further details in a 'pre-commencement' style condition. However, where development has taken place it is obviously not possible to require something is submitted 'pre-commencement'. There has to be an alternative jeopardy for non-compliance or, as in this case, for refusal of those details but where the applicant does not confront those matters through the appeal process. In order to have an adequately enforceable condition, removal of the benefit of the planning permission (I return to that matter below), is the necessary alternative option even though the wording looks, on its face, severe.

The lawful use and the disputed conditions

12. In the 2019 appeal decision, the Inspector was being asked to consider condition 2 of one of the previous decisions which related to the approved plans. The main issue was "the effect that development in non-compliance with the disputed condition has had upon the character and appearance of the area...". The decision goes on to confirm that the use was not being considered. The previously approved floor plan had not been complied with. The floor layout at the time of the appeal did not "appear to provide the range of accommodation and facilities previously approved, which are necessary to support the approved use".
13. I am not aware of all of the evidence that led to that view but that resulted in the imposition of condition 6, at i) a), requiring the submission of a floorplan showing accommodation and facilities equivalent to those shown on the previously approved plan. It was furthermore submitted in defence of the Inspector's decision in the High Court Permission Hearing that although the same floor layout as previously approved did not need (and could not be) rigidly adhered to, substantially the same number, type and area of bedrooms, bathrooms and living/teaching areas needed to be provided.
14. The Inspector in that previous case was not reviewing the acceptability in principle of the building being used as a camping barn. Nor was the Inspector being asked to define what a camping barn is. The background was of a set of decisions that had consistently approved planning permission for a "camping barn". From the context of the decision, it appears to me that the Inspector was seeking to retain the status quo in terms of the use of the building rather than open up a whole different line of enquiry that neither main party to the appeal were expecting to crop up and were not prepared for.
15. When the application for permission to the High Court was heard, the submissions on behalf of the Secretary of State in defending condition 6, and in particular paragraph (i)(a), were also limited to that context. It is not a court

judgement. The whole aspect of what is a “camping barn”, was not confronted entirely as it did not need to be for the purposes of that procedure.

16. In this case, I may need to go further than those previous decision makers. The appeal under ground (a) in particular, means that I am considering whether planning permission should be given for the development as previously approved but without compliance with conditions 2 and 6. As such, in my view, I am constrained, as this appeal relates to a notice concerning breaches of conditions and not a material change of use, to considering the use within the limitation of the description of the development as a “camping barn” rather than a materially different holiday occupancy use.

Nullity and Invalidity

17. In addition to the grounds of appeal, the appellant’s first basis for challenging the notice is that they consider it may be a nullity. It has been held that the test in deciding whether an enforcement notice satisfies the statutory requirements must be, does the notice tell the persons in receipt of it fairly what they have done wrong and what they must do to remedy it. A notice is ‘null’ if it is defective on its face to the effect that there is in fact no notice.
18. The appellant suggests that the effect of non-compliance with disputed condition 6 is the loss of the planning permission. In their view, the conditions being enforced may not therefore continue to have effect.
19. I agree with the appellant in so far that if non-compliance with condition 6 as has occurred did result in the loss of the planning permission, the notice would be fundamentally flawed. By alleging a breach of planning control that could not have occurred would render the notice a nullity.
20. However, I consider that the act of non-compliance with part of the condition would not result in the planning permission falling away. Condition 6 requires the demolition of the building within 56 days of failure to meet any of its required steps. Looking at this logically in the ordinary meaning of the words used, once demolition occurs there would be no building for the use to take place within. The previously implemented planning permission would have been spent and could not be relied upon again for its reconstruction. The result would potentially be that there was no longer a planning permission to utilise. Those circumstances do not however exist here as the building remains.
21. I therefore interpret the situation that we are presently in, as the breach of the requirements of condition 6. This enables the Council to have control over the development which cannot however, fully benefit from the planning permission whilst the matter of an agreed internal layout remains outstanding. The enforcement notice has been directed at that and another breach. If the notice had come into effect and was complied with, the planning permission could be argued to have been lost. That has not occurred and the breach of the planning condition could theoretically be rectified. There remains a planning permission for the building and its use. That permission includes enforceable planning conditions. The notice is not a nullity.

The Appeal on ground (b)

22. To succeed on this ground, the onus is upon the appellant to demonstrate that the matters as alleged have not occurred, as a matter of fact. The appeal on

this ground relates only to the "Third matter", that being the alleged breach of condition 2.

23. There is no dispute that the building has been occupied by holiday makers. In that sense, the matters put forward could similarly be considered as an appeal under ground (c), that they have taken place but did not constitute a breach of planning control. However, the argument is that the nature of the occupation has been for holiday purposes but not within the limitation of the term "camping barn". I will continue to consider this under ground (b). The onus is upon the appellant to demonstrate their case on the balance of probabilities. Condition 2 is set out above, in the header to this decision.
24. The Council are of the view that given the layout and type of accommodation provided, the holiday use that has taken place cannot fall within the limitation of being a "camping barn" as set out in the description of development and as repeated within condition 2. There is no legal interpretation of "camping barn" as there is for other uses of buildings such as, for example, dwellinghouse which in itself has come about through settled case law. It is necessary for me to consider the term "camping barn" taking the ordinary meaning of the words.
25. The various dictionary definitions of "camping" revolve around the act of staying and sleeping in an outside area for one or more days and nights, usually in a tent. The normal sense of what a barn is, is along the lines of a large building on a farm where animals, hay, grain or equipment are stored. There is no literal interpretation that can be made when conjoining the words. However, in my view a reasonable interpretation is that it is somewhere that people can stay in communal groups in a simple, rudimentary way as they would when camping, albeit within a large, covered building. In this way, it would be similar perhaps to the term bothy or bunkhouse. The original submission included a "teaching/presentation room" which indicates that it was targeted at groups visiting with an educational as well as recreational purpose rather than simply holidaymakers. That also helps to define the limits of the use approved by the original planning permission.
26. In my experience and taking account of the on-line information submitted by the appellant about other similarly targeted accommodation, the way in which these types of places can be provided, varies greatly. There are unlikely to be the same circumstances in every case where the term "camping barn" is used and it will be a matter of fact and degree when considering the accommodation provided and how that affects the use of the building.
27. In this case, the Council originally, in 2014, approved a newly constructed building and so it is reasonable to expect that whatever layout the building had, it would be built to modern standards. It was not a case at that time of putting a few bunkbeds and services inside an old, utilitarian farm-building. It is also reasonable in my view therefore to expect a building with a different, more refined character from, for example, a roughly converted bothy aimed at providing rudimentary overnight shelter for hill or coastal-path walkers that would be at one end of the "camping barn" spectrum.
28. It has also always been accepted when the original permission was given in 2014, that people would be able to stay for long holidays, potentially up to 28 days each year and a planning condition allows for that. In my view occupiers staying for periods of more than just a night or 2 are likely to expect a

reasonable degree of comfort, rather than the basic level of accommodation provided where very short-term stays are expected.

29. The accommodation provided does allow for communal occupation albeit to a high, modern and comfortable standard. There is a large open plan area with big dining benches next to the substantial kitchen on the ground floor as well as a communal lounge area. This is overlooked by the mezzanine platform (which also included 3 beds at the time of my visit) with glazed balustrade. This limits the amount of privacy that occupants could have. The bedrooms with multiple bunkbeds as existed on the ground floor when I visited as shown on plan '821.04 B' potentially provide dormitory accommodation suited to large groups. The addition of a large disabled bedroom with shower facilities, instead of what was described as a "dorm room" on the plans approved originally, seems to me to be a reasonable modern improvement.
30. There is smaller, more private accommodation on the first floor as shown on plan '821.05 B' which may be more suited to instructors or teachers staying with groups. A "teaching and presentation room" is shown on the plans of a similar size as the equivalent room on the original planning permission drawings. The presence of the en-suite shower within the teaching room seems unusual. There is a store shown on the plans, within that room, which was not accessible because a wardrobe was blocking the door which also seemed rather odd to me. However, these matters alone when considered with the rest of the accommodation does not mean that this building could not be potentially occupied as a "camping barn", in my opinion.
31. The presentation of the floor plan with more shared facilities such as blocks of showers and toilets as originally approved, would certainly in my view make it much clearer that the building was designed with the purpose of a communal "camping barn". Nevertheless, it would seem possible that the accommodation as provided could potentially be used by groups within the reasonable scope of that description. I recognise that the floor layout is not precisely equivalent to those previously approved because the accommodation is presented in a different way. I go on to consider that further, within the ground (a) appeal.
32. Notwithstanding my view that the building could potentially be used as a camping barn, it seems from the information that I have been provided with, that the marketing of the building has been aimed at smaller family groups rather than larger groups. It has been advertised as accommodation for limited sized parties of up to 12 rather than larger groups of 22 that the building was approved for. Some of the appellant's information indicates that this was expressly aimed at 2 families or up to 6 couples within "6 en-suite" rooms. By my calculation this also means that the "teaching and presentation room" may have been intended as one of those rooms, as the mezzanine could not be reasonably considered as an en-suite room. There appears from the marketing information to therefore be a lack of any obvious intention to use the "teaching and presentation room" for the purpose it was approved for which I consider was an integral part of the "camping barn" use.
33. I therefore consider that, from the evidence provided, it appears on the balance of probability that the use that has taken place has gone beyond the scope of the planning condition as it could not be reasonably considered to have been occupied as a "camping barn".

The Appeal on Ground (a) and the deemed planning application

Main issues

34. Under this ground of appeal, planning permission is sought for the development as approved without compliance with conditions 2 and 6. I am constrained to considering the use within the limitation of the description of the development as a "camping barn". However, I can consider the appropriateness of both conditions 2 and 6, whether they should be re-applied or not or whether alternatives would be more appropriate.
35. I need to consider whether the requirements of the conditions continue to meet the tests for conditions as set out in the National Planning Policy Framework (the Framework). In particular, given the matters that are in dispute between the main parties, the main issue is whether the conditions remain necessary or reasonable in order to control the type of the holiday occupancy, as well as the ongoing effects upon the character and appearance of the area.

Condition 2

36. The reason for imposing this condition, according to the previous appeal decision, was to explicitly limit the use of the development to that for which permission was sought and to provide a mechanism for the Council to monitor use. It is also relevant to consider the historical background of the previous approvals. The condition is the same as condition 3 applied to the original planning permission in 2014. The original reason for its imposition was given as to ensure that the development is occupied as holiday accommodation thereby according with the policies of the Development Plan, protecting the amenities of the area and promoting the local economy.
37. The principle of the development of the "camping barn" has been well established through a number of planning permissions. The Council does not appear to question that continuation of that use would remain acceptable. However, they consider that a broader scope of holiday use would run contrary to the justification for the development with respect to development plan policies applying when it was originally approved and those applicable now. The appellant does not dispute that a holiday restriction is necessary.
38. The appeal site is within an attractive rural area which is remote from any significant services. The area is within the South Devon Area of Outstanding Natural Beauty (AONB). Policy DEV25 of the Local Plan¹ (LP) emphasises the highest degree of protection that will be given to the AONBs. The Framework confirms that AONBs are within the areas where landscape and scenic beauty have the highest status of protection. The site is also within the 'undeveloped coast'. LP Policy DEV24 confirms development will only be permitted in that designation where, amongst other things, it can be demonstrated that it requires a coastal location and it cannot reasonably be located outside of the undeveloped coast.
39. It is consistent with this policy background to resist general holiday accommodation, particularly new buildings, other than where it has been carefully justified and considered. This is also consistent with the development as originally considered in 2014. I would not disagree with the appellant's contention that the use that has taken place has provided a significant

¹ Adopted Plymouth and South West Devon Joint Local Plan 2014-2034, March 2019

contribution to the local economy. In this respect, LP Policy DEV15 provides support for economic development including within rural areas. LP Policy DEV15 makes it clear however that such development should be in suitable locations. It is also necessary to look at the development plan as a whole. A "camping barn" or more broadly defined holiday use are both likely to help the rural economy. The overall policy background provided by the LP Policies drawn to my attention, indicates that this location is more suited to the intended subdued development for communal groups visiting primarily to access and enjoy the unspoilt countryside and learn about the place. I have no evidence that would indicate that there is a particular need to provide the type of holiday home that the building has been used as, in this remote location.

40. It has been held that in order to restrict lawful uses, conditions have to be imposed on a grant of planning permission if the decision maker considers it necessary to restrict or constrain the development. It is debatable whether the limitation within the description of the original development would be sufficient to prevent uses that go beyond a reasonable interpretation of what a "camping barn" is. Internal changes would not by definition within S55 of the Act be "development" in themselves. The act of moving furniture around or putting beds in a room that was shown on an approved plan as not being sleeping accommodation, would not be development. If such changes do not in themselves involve a material change of use requiring planning permission, the Council could lose control. I consider that it is important to prevent that from happening in order that the use can remain limited to the circumstances that originally justified the development.
41. With respect to the appeal under ground (b) I have already made clear that I consider that "camping barn" is an understandable term and so including that within a planning condition would be enforceable. This and the further restrictions within condition 2 requiring occupation as holiday accommodation only and for a maximum period, along with measures to help enforcement, are necessary and reasonable. That condition should therefore be retained.

Condition 6 - floorplan

42. Paragraph i) a) of condition 6 requires the submission of a floorplan to show how accommodation and facilities equivalent to the previously approved layout (plan ref 'PL/PRO.FLOOR PLANS/01') will be provided. What has been provided approximates to the drawings that were submitted in an attempt to discharge condition 6 (drawings '821.04 revision B' and '821.05 revision B') although those drawings do not show sleeping accommodation on the large mezzanine. From reading the previous Inspector's decision, there is nothing to indicate that there were any beds on the mezzanine at that time. There are differences between the previously approved floor layout and what exists now.
43. Drawings '821.04 revision B' and '821.05 revision B' show en-suite bathing and toilet facilities rather than communal shower and toilet blocks that were on the originally approved layout plans. There is also a shower facility within the first-floor teaching room. That room was otherwise, at the time of my visit, laid-out with chairs facing a large television and a hanging wall-chart consistent with it being a teaching or briefing room.
44. The 2 dormitories on the ground floor at the time of my site visit accommodated 6 bunk-bed sleeping spaces each, as opposed to the 8 bed spaces shown in each of the 2 dormitories on the original plans. The en-suite

facilities would therefore be shared by up to 6 people in each room although there is another WC available on the ground floor that is not within any bedroom. Looking at the previously approved layout at ground floor level, up to 16 people sleeping in the 2 dormitories would have to share 3 communal showers and 4 communal WCs. The ratio of showers and WCs to people in dormitories is therefore a little worse within the later plans as currently laid out. However, in my view the current layout with respect to these facilities allows more privacy and is more civilised. This does not take into consideration the additional shower and WC within the teaching and presentation room and another WC at first floor level which could each be used by any occupant. There is also a large disabled bedroom with 2 beds and a large wet-room/WC on the ground floor which is a more generously proportioned layout than the original plans showed. These are positive changes in my view.

45. At first floor level the sleeping accommodation is similar in terms of bed spaces and facilities as the original approved plans. However, both rather than just one of those twin-bedrooms is now en-suite which, again, shows a more progressive layout. Additional communal sleeping room is presently available on the mezzanine which is not shown on plan '821.05 revision B'. Overall, the present layout has potentially only 1 bed-space less than originally approved. The nature of the accommodation is to a higher, generally more modern standard than that within the original layout. Looking at the building as a whole, it could be used as a "camping barn".
46. The accommodation and facilities are not precisely equivalent to those originally approved and set out in paragraph i) a) of condition 6. However, I consider with the evidence that I have before me, and what I saw, that it is not necessary for the acceptable use of the building to hinge on absolute equivalence. I do however consider that the 21 bed-spaces should be retained. A large number of beds being available is in my view critical and integral to the use remaining within my understanding of the limitation as a "camping barn", as is the ability to provide for education and instruction.
47. In order to ensure that the building does not incrementally become altered to an extent that would prevent the approved use taking place, I consider that it is reasonable and necessary to impose a different planning condition requiring that the current bed-spaces are retained, that facilities and room descriptions as shown on drawings '821.04 revision B' and '821.05 revision B' are retained and that the 'teaching and presentation room' is retained only for that purpose.

Condition 6 - shutters

48. Paragraph i) b) of condition 6 requires the submission of a specification of window shutters for the ground floor window openings. The condition has been included in order to secure and reinforce an agricultural appearance for the building than would be the case without them. When I visited, all of the ground floor windows had external shutters fitted which were in the closed position at that time. These have a functional appearance constructed of rough, sawn timber with sturdy metal hinges, bolts and latches to retain them when open. Overall, these give the building a degree of utilitarian character and achieve what was intended.
49. It is necessary to impose a replacement condition to require the retention of the shutters. This is in order to safeguard the present appearance of the building, in the interests of local design features, maintaining the distinctive

sense of place and the special qualities of the area as required by LP Policies DEV24 and DEV25 as well as Salcombe Neighbourhood Development Plan Policy SALC B1.

Conclusion on Ground (a)

50. I therefore consider that condition 2 remains necessary and reasonable. However, condition 6 is no longer necessary and can be discharged. I will allow the appeal and issue a further planning permission retaining a condition to the same effect as condition 2. The 2 further conditions which I have explained above will replace condition 6. It is not open to me in this appeal to review the other conditions previously imposed.

Conclusion

51. For the reasons given above and with regard to all the other matters raised, I conclude that the appeal on ground (b) is dismissed but the appeal on ground (a) and the application for deemed planning permission should succeed.
52. Where an appeal against a notice to enforce conditions is allowed on its merits but new conditions are required, the disputed conditions can be discharged and the new ones substituted using powers under S177(1)(b) and S177(4). The deemed planning application made under S177(5) also provides for a grant of a fresh planning permission subject to conditions. The new conditions must be imposed on the new and old permissions, so as to avoid confusion as to which has been implemented. I have worded the formal decision accordingly.
53. The appeal on grounds (f) and (g) do not fall to be considered.

A Harwood

INSPECTOR