



Appeal Decision

Site visit made on 21 June 2021

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 5 July 2021

Appeal Ref: APP/W3330/C/21/3272700

Ludwells Barn, Wrantage, Taunton, TA3 6DQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Fisher Christopher Dodd against an enforcement notice issued by Somerset West and Taunton Council.
 - The enforcement notice reference E/02001/24/19, was issued on 29 March 2002.
 - The breach of planning control as alleged in the notice is the use of a building on the land (shown edged green on the plan attached to the notice) as permanent residential accommodation in breach of Condition 03 of planning permission reference 24/00/0020 which states "The occupation of the building shall be restricted to bona fide holiday makers for individual periods not exceeding four weeks in total in any period of 12 weeks. A register of holiday makers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times."
 - The requirements of the notice are 1) to cease the use of the building referred to in paragraph 3 of the notice as permanent residential accommodation; and 2) comply with Condition 03 of planning permission reference 24/00/0020.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended
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Decision

1. The appeal is allowed in part and the enforcement notice is upheld. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, Condition No 3 attached to the planning permission dated 13 July 2000, Ref 24/00/0020, granted by the Taunton Deane Borough Council is discharged and the following new condition is substituted. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" without complying with the said condition but subject to the other conditions attached to that permission and to the following new Condition 3:

The holiday accommodation hereby permitted shall be occupied for holiday purposes only. It shall not be occupied as a person's sole or main residence. The site operator or owner shall maintain an up to date register of the names of all occupiers of the self-contained holiday unit and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the local planning authority.

Procedural Matters

2. A building edged blue on the plan attached to the enforcement notice is the subject of a separate notice and appeal (APP/W3330/C/21/3272827) and does not form part of this decision.

The site and relevant planning history

3. The land subject to the notice is adjacent to Ludwell's Farm and appears originally to have formed part of the range of buildings and yard of Ludwell's Farm. There is a vehicular access through the gate to Ludwell's Farm which provides access to the building the subject of the notice and edged green on the plan attached to the notice. It is of stone and blockwork construction on two floors with a tiled roof. Within the red line of the plan there is the building edged blue and a further building that at the time of my site inspection appeared to be in some form of holiday use although its forecourt contained a quantity of varied materials randomly stored. This has a separate vehicular access from the highway.
4. Planning permission reference 24/00/0020 was issued on 13 July 2000 for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" subject to 4 conditions. Condition 03 of the permission is referred to in the heading above and the reason for its imposition is stated as being "The Local Planning Authority is not prepared to allow a permanent residential site to become established because of the close relationship with out buildings, the restricted curtilage and the inadequate size of the building and wish to ensure that approved accommodation is available for tourism".
5. I note that the reason for the enforcement notice is based on the suitability of its location for a permanent dwelling alone as the Council makes no reference to the curtilage, relationship with outbuildings and size of the building. set out in the reason for Condition 3. I have therefore considered the locational policy issues in determining this appeal and I consider the main issue is whether the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy.

The appeal on ground (a)

6. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
7. The development plan consists of the Taunton Deane Core Strategy 2012 (CS) and the Taunton Site Allocations and Development Management Plan 2016.
8. The site is outside recognised settlement limits to which Policy SP1 applies. This policy seeks to maintain the quality of the rural environment and regards development outside settlement boundaries as being in open countryside. Policy DM2 specifies uses that will be supported in open countryside which includes the conversion of existing buildings, with the acceptability of such conversions being sequential. Conversion to open market residential use is only appropriate in exceptional circumstances and the appellant has not submitted any information in support of such exceptional circumstances.

9. The CS was adopted after the original Framework was published and would have been consistent with its principles and policies. The 2019 revised Framework supports rural community, business, tourism and leisure uses and rural housing to meet local needs, particularly for affordable housing. It also allows reuse of redundant and disused buildings in the countryside. The Council has referred to a recent appeal decision at Smeathorpe¹ in which the Inspector considered that Policy DM2 is consistent with the revised Framework. I have no reason to disagree with that Inspector and I attach full weight to the Policy contrary to the argument of the appellant that the development plan is out of date as it does not take account of changes to the National Planning Policy Framework (the Framework) or case law since adoption.
10. It is also argued by the appellant that whilst Policy DM2 supports the provision of tourism accommodation within existing buildings, there is no policy for resisting the loss of tourist accommodation, citing Bournemouth Local Plan as an example of which has such a policy but I attach little weight to such an argument as it implies that in the absence of an explicit policy, any development is acceptable without regard to the wider aims and objectives of the development plan.
11. It is further argued that as there are no relevant development plan policies the 'tilted balance' of paragraph 11(d) of the Framework should be engaged. The appellant regards SP1 and DM2 as blanket policies and refers at length to an appeal decision in which policies in the Doncaster UDP² not being considered to be in line with the 'direction of travel of local and national policies'. However, the appellant has failed to demonstrate that the development plan policies relevant to this appeal are out of date and overlooks policies such as DM2 which remain relevant and in accord with the Framework as concluded by the Smeathorpe Inspector.
12. Paragraph 79 of the Framework states that planning policies should avoid the development of isolated homes in the open countryside except in the specific circumstances listed, none of which apply to the appeal site. The appellant has cited Braintree District Council v SSCLG [2018] EWCA Civ 610 about the meaning of 'isolated' and 'settlement', where the Court held that what is a 'settlement' and whether the development would be 'isolated' from a settlement are both matters of planning judgement for the decision maker on the facts of the particular case.
13. Wrantage is a sporadic collection of dwellings and farms along a stretch of the A358 with limited facilities. Ludwells Farm and Ludwells Barn are separated from Wrantage by open fields and could not be regarded as being within a settlement.
14. On the basis of the information submitted by the appellant, the site is 550m from a PH; 500m from a bus stop, 2.9km from a shop, 3.2Km from a PO and 3.37Km from a health centre and primary school. Although there is a footway to Wrantage, the distance to local services indicates to me that the use of sustainable transport modes are likely to be less likely than elsewhere where services are closer, albeit that this is not unusual in rural areas. I attach considerable weight to the absence of sustainable transport opportunities. The

¹ APP/W3330/W/19/3237811

² APP/F4410/W/17/3169288

development does not accord with Policies CP1 to promote sustainability or with CP6 which seeks to reduce the need to travel.

15. The Council has referred to advice from Natural England dated 17 August 2020 in respect of the implications of the Dutch N case law on the Somerset Levels and Moors Special Protection Area and RAMSAR Site. Natural England advises that an appropriate assessment be carried out of planning applications that will result in a net increase in population served by a wastewater system, including new homes, student and tourist accommodation. However, this appeal relates to a breach of condition and not to a material change of use and the use remains as residential irrespective of the condition. The condition does not limit the period of the year when the property can be used as holiday accommodation, only the duration of occupation by a particular holiday maker. Accordingly the maximum use of the wastewater system could be potentially similar whether in permanent residential use as in holiday use. I therefore attach little weight to the relevance of the advice to this appeal.
16. I conclude that the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy. The proposed removal of the holiday condition would result in an unfettered dwelling in an isolated location remote from services and where residents would be reliant on the private vehicle to meet their daily needs. It would be contrary to Policies SP1, DM2, CP1 and CP6 of the development plan and with the approach of the Framework to residential development in the open countryside.

Other Matter

17. The appellant has suggested a replacement condition that the Council considers acceptable as it would reflect the wording of similar conditions on more recent decisions. I have the power under s177(1)(b) to discharge Condition 3 of planning permission reference 24/00/0020 and impose a new condition using the power under s177(4).
18. The appeal has limited success on ground (a) to the extent that Condition 3 is replaced with another condition which is no more onerous than the original. The enforcement notice is upheld subject to the replacement condition on the deemed planning application.

The appeal on ground (g)

19. The appellant states that the appeal property is his established home and has been so since 2013 and that a compliance period of 18 months would be more suitable. It is also requested that a concurrent time should be set for the compliance period in relation to the second enforcement notice which would require demolition and clearance.
20. I consider that the breach of condition should cease within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate and proportionate in order to carry out the requirements of the notice. Notwithstanding the outcome of the appeal against the second enforcement notice the Council has the power under s173A(1)(b) of the Act to extend the compliance period specified at its discretion.
21. The appeals on ground (g) fail.

Conclusion

22. For the reasons given above I conclude that the appeal should have limited success on ground (a) but that the enforcement notice should be upheld. I propose to discharge the condition the subject of the notice, and to grant planning permission, on the application deemed to have been made, for the change of use previously permitted without complying with the condition enforced against, but to substitute a less onerous condition as indicated in the decision. The appeal on ground (g) does not succeed.

P N Jarratt

Inspector