



Appeal Decision

Site Visit made on 19 July 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 26 July 2021

Appeal Ref: APP/F9498/W/21/3270137

Simonsbath Barton, Simonsbath, Minehead, TA24 7SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Dr Charles and Edward O'Connor and Greenall against the decision of Exmoor National Park Authority.
 - The application Ref 6/14/20/104, dated 1 July 2020, was approved on 3 September 2020 and planning permission was granted subject to conditions.
 - The development permitted is the proposed conversion of storage rooms in stables to disabled accessible one bedroom flat for dual use of holiday accommodation and dependant relative annex.
 - The condition in dispute is No 11 which states that:
*11. The hereby approved residential unit in the application building shall not be occupied other than as self-catering holiday accommodation or as a dependent relative annex in accordance with the occupation restrictions outlined below.
When the application building is in use as a self-catering holiday unit in accordance with the above, the application 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.
When the application building is not in use as a self-catering holiday unit in accordance with the above, it shall not be used other than as ancillary living accommodation for a dependent relative associated with the occupier(s) of the main house at Simonsbath Barton.
The application building shall not be occupied for any other purposes without the express permission from the Local Planning Authority and it shall not be sold or otherwise disposed of separately from Simonsbath Barton.*
 - The reason given for the condition is: *To ensure that the residential accommodation in the building complies with the Exmoor National Park Local Plan 2011 – 2031, to ensure that when used for self-catering accommodation it is retained to support the agricultural activities on Simonsbath Barton, and to prevent an unrestricted occupation contrary to the Local Plan.*
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Decision

1. The appeal is allowed and the planning permission Ref: 6/14/20/104 for the proposed conversion of storage rooms in stables to disabled accessible one bedroom flat for dual use of holiday accommodation and dependant relative annex at Simonsbath Barton, Simonsbath, Minehead TA24 7SJ granted on 3 September 2020 by Exmoor National Park Authority, is varied by deleting Condition 11. and substituting Condition 11. with the following substitute condition:

11. The hereby approved residential unit in the application building shall not be occupied other than as self-catering holiday accommodation or as a dependent relative annex in accordance with the occupation restrictions outlined below.

When the application building is in use as a self-catering holiday unit in accordance with the above, the application 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.

When the application building is not in use as a self-catering holiday unit in accordance with the above, it shall not be used other than as ancillary living accommodation for a dependent relative associated with the occupier(s) of the main house at Simonsbath Barton.

The application building shall not be occupied for any other purposes without the express permission from the Local Planning Authority.

Main Issue

2. The main issue in this appeal is whether the disputed condition is necessary and reasonable in the interests of ensuring that when used for self-catering accommodation the permitted development is retained to support the agricultural activities on Simonsbath Barton, and in the interests of preventing an unrestricted occupation contrary to the policies of the Exmoor National Park Local Plan (the Local Plan).

Reasons

3. The submissions in this appeal indicate that the original planning application was considered by the Planning Authority as a farm diversification. Planning permission was granted and which included the disputed condition provided in the banner heading above. The Appellants have put it to me that the condition is unnecessary and unreasonable in scope and with particular regards to the inclusion of the term "and shall not be sold or otherwise disposed of separately from Simonsbath Barton".
4. The evidence before me confirms that the main farmhouse and the application building is in separate ownership from the extensive farm holding. The wider farm business holding and the separate main farmhouse and application building, are both known separately as 'Simonsbath Barton'. Whilst the disputed condition ties the use of the application building when in use as an annex to the main house at Simonsbath Barton, the effect of the condition as a whole is that the application building irrespective of its use cannot be sold separately from the wider farm holding.
5. The Appellants submitted a separate planning application in respect of the appeal site following the Appellants' application to amend or remove the disputed condition which was refused by the Planning Authority. That separate application removed reference to the use of the application building as an annex, and the evidence before me indicates that the Planning Authority granted permission for the holiday accommodation use at the site which was not submitted as part of a farm diversification proposal and which did not

- include any term that prevented the sale of the approved holiday accommodation from the main house at Simonsbath Barton.
6. As such, the Planning Authority have confirmed that the disputed wording of the condition is not necessary in relation to the application building's use as holiday accommodation. Nonetheless, the Planning Authority consider that the wording of the disputed condition remains necessary and reasonable in relation to the proposed use of the application building as an annex and in order to ensure that the annex could not be sold off or otherwise disposed of separately from the property that it is ancillary to.
 7. However, as noted above, the overall effect of the disputed wording is to prevent the sale of the application building separately from the wider farming holding known as Simonsbath Barton. Consequently, in its current form, the disputed condition would not tie the annex to the main farmhouse at Simonsbath Barton but rather would tie the annex to the wider farm holding in relation to any sale or disposal. The condition would therefore not ensure that the annex could not be disposed of separately from the property that it is ancillary to, given that the annex is not ancillary to the wider farm holding.
 8. Furthermore, inclusion of the term "and shall not be sold or otherwise disposed of separately from Simonsbath Barton" would result in a contradiction with the wording of the disputed condition which also requires that, when the building was not in use as holiday accommodation, the application building shall not be used other than as ancillary living accommodation for those associated with the occupiers of the main house at Simonsbath Barton. Consequently, I find that the condition in its current form would not be sufficiently precise.
 9. In addition to the above, I also find that the inclusion of a term that expressly prevents the separate sale of the application building from the main house at Simonsbath Barton, to be unreasonable and unnecessary. There does not appear to be any evidence before me which indicates that the express inclusion of such a term is required by policies of the development plan and it is noted that the condition, as above, is clear in that when the building is in use as an annex, it shall not be used other than as ancillary accommodation for a dependant relative associated with the occupiers of the main house at Simonsbath Barton. Such wording alone would ensure that the use of the application building as an annex remained tied to the occupation of the main house at Simonsbath Barton, thereby preventing its use as an unrestricted dwelling.
 10. Taking the above matters into consideration, I therefore conclude that the disputed wording of the condition in respect of "and shall not be sold or otherwise disposed of separately from Simonsbath Barton" is not reasonable nor necessary in the context of the Local Plan. I therefore consider that the disputed condition should be removed and replaced with a condition that omits the disputed wording as provided in the decision above.

Conclusion

11. For the reasons given above, I conclude that the appeal is allowed, and planning permission varied as set out in the decision above.

Mr A Spencer-Peet INSPECTOR