



Appeal Decision

Site visit made on 7 June 2022

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

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/D1265/W/22/3291887

Juniper Barns, Hooke, Beaminster DT8 3NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission under section 73 of the 1990 Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr T Bugler against the decision of Dorset Council (the Council).
 - The application Ref: P/VOC/2021/01599, dated 10 May 2021, was refused by notice dated 9 November 2021.
 - The application sought planning permission to make alterations to convert barns to form 5 holiday units without complying with a condition attached to planning permission Ref: WD/D/16/001981, dated 28 March 2017.
 - The condition in dispute is No 3 which states that: *The development hereby permitted shall not be occupied at any time other than for purposes which form an integral part of the planning unit known as Juniper Barns, Higher Steet Lane, Hooke, Beaminster DT8 3NX, as indicated as being within the blue line on the approved plan received by the Local Planning Authority on 13.9.16 as a single dwelling unit.*
 - The reason given for the condition is: *The development is in an area where a new dwelling would be contrary to the provisions of the approved Structure and Local Plan and normally would not be permitted, except where there is an overriding need in the interest of agriculture or forestry.*
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Decision

1. The appeal is allowed and planning permission is granted to make alterations to convert barns to form 5 holiday units without complying with a condition attached to planning permission Ref: WD/D/16/001981, dated 28 March 2017, at Juniper Barns, Hooke, Beaminster DT8 3NX in accordance with the application Ref: P/VOC/2021/01599, dated 10 May 2021, without compliance with Condition 3 previously imposed on planning permission Ref: WD/D/16/001981 dated 28 March 2017 but subject to the other conditions imposed therein, namely:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan & Block Plan received on 13/09/2016.
 - 2) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Procedural Matters

2. In the interests of accuracy, I have amended the description of development from that provided on the planning application, to that included in the banner heading above, so as to identify the development to which the decision relates.

Background and Main Issue

3. The site at Juniper Barns comprises land and a group of five units of accommodation. Planning history for the site confirms that, in 1994, the Council granted planning permission (the 1994 Permission) for an application described as for “making alterations to convert barns to form 5 holiday units”. This was subject to a number of conditions, two of which concerned restricting the use to holiday accommodation only. In March 2017 a subsequent planning application was made to allow the development without compliance with the conditions attached to the 1994 Permission that restricted the use to holiday accommodation only. The Council approved that application (the 2017 Permission), removing the holiday use restriction conditions but imposing the disputed condition that is the subject of this appeal.
4. The main issue in this appeal is whether the disputed condition is precise, necessary, and relevant.

Reasons

5. The Council’s reason given for the disputed condition is provided in the banner heading above. It is to prevent the individual units of accommodation becoming independently occupied dwellinghouses by reason of their countryside location.
6. Paragraph 56 of the National Planning Policy Framework (the Framework) states that “Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”. The Planning Practice Guidance (the PPG) confirms that each of those tests need to be satisfied for each condition which a Local Planning Authority intends to apply and that any proposed condition that fails to meet one of those tests should not be used.
7. In respect of the precision requirement, the disputed condition incorrectly identifies the site at Juniper Barns as being within the blue line included on an approved plan. It is clear that the plan referred to within the disputed condition shows Juniper Barns as being within the red line. Consequently, the disputed condition fails to accord with the precision test described above.
8. Further to the above, the disputed condition also provides that the approved development “shall not be occupied at any time other than for the purposes which form an integral part of the planning unit known as Juniper Barns”. Given the removal of the condition restricting occupancy to holiday use under the 2017 Permission, the units of accommodation at the site could currently be independently occupied. As such, and in combination with the above, I am not persuaded that the disputed condition would serve any purpose in tying those individual units of accommodation together in order to prevent those accommodation units becoming independently occupied dwellinghouses.
9. I consider that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it, the facilities required for day-to-day private domestic existence. It would not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. Consequently, a unit of holiday accommodation will usually be treated as a dwellinghouse under Use Class C3 of the Town and Country Planning (Use

Classes) Order 1987 (as amended) for the purposes of applying planning policies.

10. It is unclear what is meant by the permitted development at present not being occupied "other than for purposes which form an integral part of the planning unit" known as Juniper Barns. However, there is nothing in the disputed condition, or otherwise on the 2017 Permission to restrict occupancy.
11. The use of the individual units of accommodation is not dependant on the disputed condition and, for the reasons given above, that condition is not considered to be necessary. As a result of the above, the disputed condition cannot be seen as being relevant to the permitted development or is needed to make it acceptable in planning terms. Therefore, notwithstanding the concerns of Policy SU2 of the West Dorset, Weymouth & Portland Local Plan (2015) and any possible conflict with the spatial strategy, allowing development in non-compliance with the condition will not allow the individual units to be occupied in a materially different manner.
12. In light of the above, I conclude that the disputed condition does not satisfy the aforementioned appropriate tests contained within the Framework and the PPG. In allowing this appeal under section 73 of the 1990 Act, the parties are reminded that I am not authorising a change of use, but rather I am allowing development subject of the 1994 Permission (namely making alterations to convert barns to form 5 holiday units) without complying with a planning condition attached to the 2017 Permission. If the Appellant proposes anything that constitutes a material change of use, then a separate planning permission could be required.

Conditions

13. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the earlier planning permission, I shall impose both of those contained within the Council's decision notice dated 28 March 2017.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but restating those undisputed conditions.

Mr A Spencer-Peet

INSPECTOR