



Appeal Decision

Site visit made on 3 March 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal Ref: APP/D1265/W/21/3282322

Pig Oak Farm, Wimborne, BH21 7DG

- 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 without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Lillidale Ltd against the decision of Dorset Council.
 - The application Ref 3/21/0151/CONDR, dated 26 January 2021, was refused by notice dated 19 May 2021.
 - The application sought planning permission for Change of Use of Existing range of Agricultural Buildings to Veterinary Pharmaceutical Offices, Clean Room, Warehouse and Residential Accommodation for Business Visitors at Pig Oak Farm without complying with conditions attached to planning permission Ref 3/13/0506/COU, dated 22 October 2013.
 - The conditions in dispute are Nos 2 and 7 which state that:
 - Condition 2 - Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order), the use of the development, hereby permitted, shall be restricted to the use as Veterinary Pharmaceutical Offices, Clean Room, Warehouse and Residential Accommodation for Business Visitors, as described in the application only, and for no other use, unless specifically authorised by planning permission obtained in writing from the Local Planning Authority.
 - Condition 7 - The first floor flat located in Unit 2 of the development hereby permitted, shall only be occupied as ancillary living accommodation in connection with the business use of the site granted by this permission. It shall not be sold, or sub-let to a third party unconnected with the business operating on site unless approved writing in the form of a specific planning permission obtained from the Local Planning Authority.
 - The reasons given for the conditions are:
 - Condition 2 - But for the Very Special Circumstances put forward by the applicants for the development, including the creation of a new unit of living accommodation in the open countryside and South East Dorset Green Belt, the proposal would be unacceptable as it would be contrary to the Council's established planning policies which restrict development in the open countryside and Green Belt to those uses outlined in the NPPF paragraphs 55, 88 and 89; Policy GB2 in the East Dorset District Local Plan 2002; and, Policy PC3 in the Christchurch and East Dorset Core Strategy (March 2013). This condition will enable the Council to retain control over the future use of the site to ensure that any future proposals for development are compatible with the above described surroundings.
 - Condition 7 - But for the Very Special Circumstances put forward by the applicants the creation of a new unit of living accommodation in the open countryside and South East Dorset Green Belt would be unacceptable as it would be contrary to the Council's established planning policies which restrict development in the open countryside and Green Belt to those uses outlined in the NPPF paragraphs 55, 88 and 89; Policy GB2 in the East Dorset District Local Plan 2002; and, Policy PC3 in the Christchurch and East Dorset Core Strategy (March 2013).
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Decision

1. The appeal is allowed and planning permission is granted for Change of Use of Existing Range of Agricultural Buildings to Veterinary Pharmaceutical Offices, Clean Room, Warehouse and Residential Accommodation for Business Visitors at Pig Oak Farm Wimborne, BH21 7DG in accordance with Ref 3/21/0151/CONDR, dated 26 January 2021, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref 3/13/0506/COU, dated 22 October 2013 and subject to the conditions set out in the attached schedule.

Background and Main Issues

2. In 2013 planning permission was granted, subject to a number of conditions, for change of use of existing range of agricultural buildings to veterinary pharmaceutical offices, clean room, warehouse and residential accommodation for business visitors at Pig Oak Farm. This included a condition restricting the use to that which was applied for (condition 2) and a condition tying the occupation of the first floor flat to ancillary living accommodation in connection with the business use of the site as granted by the permission. The current proposal seeks to vary condition two by removing the reference to "Residential Accommodation for Business Visitors" and to remove condition 7 in its entirety to facilitate the use of the property as an unfettered residential unit. No physical alterations are proposed.
3. However, the Council refused the application and consider the conditions remain necessary, citing that the proposed open market residential unit would be inappropriate development within the South East Dorset Green Belt and would be located in an area which would be an unsuitable location for a permanent open market residential dwelling. The Council also refused the application on the basis that the location of the proposed open market dwelling adjacent to the ongoing business use would lead to a poor standard of amenity for future residents.
4. Consequently, the main issues are whether conditions two and seven are reasonable and necessary having regard to:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - whether or not the development occupies an acceptable location for a permanent residential dwelling having regard to relevant development plan policies and policies in the Framework; and
 - whether or not the development would provide satisfactory living conditions for future residents with particular regard to amenity space, noise, disturbance and odour.

Reasons

5. The appeal site comprises a series of ex-agricultural buildings set around a central courtyard. The buildings have been refurbished and made fit for purpose for the existing business after planning permission was granted in 2013 for 'Change of Use of Existing Range of Agricultural Buildings to Veterinary Pharmaceutical Offices, Clean Room, Warehouse and Residential

Accommodation for Business Visitors.’. This planning permission has been implemented and is the current authorised use of the land and buildings.

6. The site is located outside of any defined settlement boundary, within the open countryside and the South East Dorset Green Belt.

Inappropriate development

7. Paragraph 147 of the National Planning Policy Framework (The Framework) identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 states that new buildings should be regarded as inappropriate in the Green Belt, save for a limited number of exceptions.
8. I note that the Council hold that, as the current proposal would effectively remove the very special circumstances which justified the 2013 planning permission, the proposal would constitute inappropriate development within the Green Belt. At the present time the building is already in situ and the dwelling, albeit with an attached occupancy condition, exists. Therefore, in my view, the change from a restricted occupancy to a general occupancy would not result in the construction of a new building and would not amount to inappropriate development within the Green Belt.

Location

9. The appeal site is located within a rural area outside of the main built-up areas nearby and outside of the settlement boundary. The prevailing character of the immediate area is rural with rural roads featuring occasional ribbons of primarily single depth residential development interspersed with fields and countryside.
10. Policy KS2 of the Christchurch and East Dorset Local Plan, Part 1 – Core Strategy, April 2014 (CS) sets out the Council’s settlement hierarchy and identifies existing settlements as well as setting out where development would be acceptable. The Policy states that outside of the named settlements development would not be allowed unless it was functionally required to be in the rural area.
11. The Framework also sets out that housing should be located where it will enhance or maintain the vitality of rural communities and goes on to say that the development of isolated homes in the countryside should be avoided unless certain circumstances apply.
12. During my site visit I observed that the site is some distance from any shops, services or facilities. Transport links within the vicinity of the appeal site are also poor. Furthermore, the roads in the area do not have regular, accessible or continuous pavements and these characteristics are likely to discourage pedestrians and cyclists thus further increasing the reliance on private motor vehicles. The nearest settlement is the village of Furzehill, around 0.8 miles away via a largely unlit and often single track road.
13. For the reasons set out above, I consider that the site is physically separated and remote from nearby settlements and as such it can properly be described as isolated and would not, therefore, represent an appropriate location for a permanent residential dwelling. I have not been provided with compelling

evidence to suggest that any of the circumstances which would warrant a market dwelling in this location would apply in this instance.

14. I note that Condition 7 would not prohibit those connected with the business occupying the existing flat on a permanent basis. However, any such occupation would, nevertheless, be for business purposes and would be tied to the other activity on site. Such an occupier would not, therefore, need to travel for work.
15. I recognise that those staying on the site under such a capacity still have to travel to purchase supplies amongst other things. However, this travel is associated with a business which would contribute to the rural economy and the balance of factors to be considered under these circumstances is therefore different to those present when considering an unfettered dwelling.
16. For these reasons I consider that the development does not occupy an acceptable location for a permanent unfettered residential dwelling. The evidence before me does not indicate that there is a functional requirement for an open market dwelling in the rural area or indicate that any other circumstances which would warrant such a dwelling would apply in this instance. Consequently, the proposal would conflict with Policy KS2 of the CS which sets out the Council's settlement hierarchy. The proposal would also fall short of the expectations of The Framework which gives clear guidance regarding suitable locations for new housing.

Living conditions

17. The flat occupies a position within the wider business compound and does not benefit from any specific or notable separation. Though I note that the site itself did not, at the time of my site visit, appear to be particularly noisy or odorous I am not satisfied on the basis of the evidence before me that the day to day activities associated with the business would not cause undue or harmful disturbance in other ways to the occupiers of a market dwelling in this location.
18. Having reviewed the full list of conditions I cannot identify any which would have the effect of limiting the hours of operation of the business or controlling the times at which delivery vehicles can enter or leave the site. As such, deliveries to and from the business, visitors and general activity associated with the business could occur at times of the day and night when an individual living in a dwelling on the site with no association with the business would reasonably expect a degree of peace and quiet. Conflicts such as this would not only cause harm to the living conditions of the occupiers of the flat but could also lead to future pressure which could affect the viability of the business as a whole.
19. Furthermore, the flat does not have access to private amenity space. Use by the occupants of the flat of the shared outdoor spaces could potentially result in conflict between the business activities and those living in the flat. The use of such outdoor space would also fail to give the occupants of the flat any degree of privacy.
20. I acknowledge that it would appear that no mention of concern around amenity occurred during the imposition of the original conditions. However, the circumstances in that application were notably different as the Council was considering the flat in the context of a description of development which

referred to “residential accommodation for business visitors”. The requirements and expectations of temporary visitors to a business would be different to those of an occupant creating a permanent home entirely separate to the business on the site. I recognise that the conditions do not prohibit long term occupation of the flat by someone connected to the business. However, such a person would, nevertheless, have an association with the business and would recognise that the accommodation was linked with its successful operation. Expectations regarding occupation of this type would, consequently, differ and conflict between the occupant of the flat and the operation of the business would be unlikely to arise.

21. For these reasons I consider that the development would not provide satisfactory living conditions for future residents with particular regard to amenity space, noise and disturbance. As such, the proposal would conflict with Policy HE2 of the CS which states that development will be permitted if it is compatible with or improves its surroundings in a number of ways including its relationship to nearby properties and minimising general disturbance to amenity.
22. There would also be a failure to conform with the Framework which states that developments should create a high standard of amenity for existing and future users.

Other Matters and Planning Balance

23. Whilst the appellant makes reference to the existence of an appeal decision¹ which could be considered similar, each case must be determined on its individual merits and the circumstances in each case are likely to be different. For example, the appeal relates to a group of three holiday units which, according to paragraph 7 of the appeal decision, occupy a site which is not considered isolated alongside and near to a number of other dwellings. In this case, I have, conversely, found the site in this appeal to be isolated in the sense that it is physically separated and remote from nearby settlements.
24. I acknowledge that the proposal would provide an additional unit of accommodation in the district although any benefit from this would be negated by the poor standard of living accommodation it would provide. However, I acknowledge the potential economic benefits of allowing additional income to be generated for the business by the flat. This benefit is, however, limited by the small scale of the proposal and must be considered in that context.
25. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the proposal would not occupy an acceptable location for a permanent residential dwelling and would fail to provide satisfactory living conditions for future residents with particular regard to amenity space, noise and disturbance. The development would be contrary to the adopted development plan and there are no other material considerations to indicate a decision otherwise than in accordance with it.

Conditions

26. The Framework sets out six tests which must be met in order for a planning condition to be imposed. These are that they are necessary, relevant to

¹ APP/U1240/W/18/3212218

planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

27. I note the appellant's statement that the reference to restricting the use of the flat to "residential accommodation for business visitors" in condition 2 is more onerous than, and inconsistent with, the restrictive occupancy condition (7) which simply states that the flat shall only be occupied as ancillary living accommodation in connection with the business use of the site. I agree with this assessment and find the two conditions taken together imprecise; as such they would fail the tests set out in paragraph 56 of the Framework. Consequently, in order to ensure that the conditions would not be made more onerous by this appeal I will amend condition 2 to remove the reference to business visitors and to ensure consistency with condition 7.
28. The guidance in the PPG is clear in setting out that decision notices for the grant of planning permission under Section 73 of the Town and Country Planning Act 1990 (as amended) (The Act) should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me regarding the status of the other conditions imposed on the original permission, I shall impose all those which I consider remain relevant. If some have, in fact, been discharged that is a matter which can be addressed by the parties.
29. Section 73(5) of the Act states that planning permission must not be granted under this section for the development of land in England to the extent that it has an effect to change a condition subject to which a previous planning permission was granted by extending the time within which a development must be started. Accordingly, I have amended the standard commencement condition.
30. I note that the appellant has not specified written consent for precommencement conditions, however, their submissions do not raise any issues with those other conditions. In accordance with the PPG guidance I shall reimpose them.
31. I have no evidence before me from either party that the remaining conditions have been found not to meet the tests outlined above, thus I have reimposed them on this basis.

Conclusion

32. For the above reasons I consider that a condition restricting the use of the dwelling to purposes ancillary to, and in connection with, the business to be reasonable and necessary. However, as I have set out above, the wording of condition 2 as set out in the decision notice does not meet the tests set out in paragraph 56 of the Framework. I have therefore altered the wording of the condition. As a result the appeal is allowed but only in respect of removing references to business visitors.

L J O'Brien

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the 22 October 2013.
- 2) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order), the use of the development, hereby permitted, shall be restricted to the use as Veterinary Pharmaceutical Offices, Clean Room, Warehouse and ancillary living accommodation in connection with the business use of the site, as described in the application only, and for no other use, unless specifically authorised by planning permission obtained in writing from the Local Planning Authority.
- 3) The development hereby permitted shall be carried out strictly in accordance with the following approved plans: 1:1,250 Site Location Plan; 1:500 scale Block Plan; Drawing No. 1872/04 Rev. B Proposed Floor and Site Plans; and, Drawing No. 1872/08 Proposed Elevations, unless otherwise agreed in writing by the Local Planning Authority via the submission of an application for a non-material amendment.
- 4) The proposed materials for the walls and roofs, and for the new windows and doors, in the development hereby permitted shall be as outlined on Drawing No. 1872/08 unless otherwise agreed in writing by the Local Planning Authority.
- 5) All new and replacement rainwater goods comprising gutters and downpipes, and including soil vent pipes shall be of either cast iron or cast aluminium and painted black. Once in place these rainwater goods and SVP's shall thereafter be permanently maintained in these materials/colour unless otherwise agreed in writing by the Local Planning Authority.
- 6) All works for making good of the existing external fabric of the buildings shall be carried out using like for like materials including lime mortar, matching bricks and natural slates unless otherwise agreed in writing by the Local Planning Authority.
- 7) The first floor flat located in Unit 2 of the development hereby permitted, shall only be occupied as ancillary living accommodation in connection with the business use of the site granted by this permission. It shall not be sold, or sub-let to a third party unconnected with the business operating on site unless approved writing in the form of a specific planning permission obtained from the Local Planning Authority.
- 8) The applicant shall maintain and regularly update a register of occupants of the flat hereby permitted. The register shall contain the dates of occupancy, and details of occupants and their connection with the business operating on site and shall be available for inspection upon receipt of 24 hours written notice if requested to do so by the Local Planning Authority.
- 9) Before any equipment, materials or machinery are brought onto the site for the purposes of the development hereby approved, a pre-commencement site meeting between the Councils Tree Officer; the Arboricultural Consultant; and Site Manager shall take place to confirm the protection of the trees on site.

- 10) The protection of the trees on site identified at the site meeting required by condition 8 of this planning permission shall be carried out in accordance with the Arboricultural Method Statement, dated July 2013, compiled by Knighton Countryside Management. The protective measures are to be erected and installed as specified within the method statement before any equipment, materials or machinery are brought onto the site for the purposes of development. The protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority. This condition shall not be discharged until an arboricultural supervision statement, the contents of which are to be agreed at the pre-commencement meeting, is submitted to and approved in writing by the Local Planning Authority on completion of the development.
- 11) Prior to the development hereby permitted being first brought into operation, the existing access point onto Holt Lane shall be permanently and effectively closed by removing the existing gates and extending the wall to fill the access gap that adjoins the highway boundary. The existing vehicular highway crossing shall be expunged and re-instated to a specification which shall have been submitted to and approved in writing by the Local Planning Authority.
- 12) The development hereby permitted shall not be occupied or utilised until the access, turning and parking areas shown on Drawing No. 1872/04 Rev. B have been constructed. Thereafter, these areas shall be permanently made available for these specified purposes and maintained free from any obstruction.
- 13) Prior to the commencement of any works on site hereby permitted, except for the approved measures for the protection of trees, the proposed access crossing from the nearside edge of the carriageway to the boundary of the highway (as shown on the submitted plan Titled "Proposed access to Pig Oak Farm" dated 14/12/12 and possibly referred to in the Design and Access Statement as 1872/09) shall be laid out and constructed to a specification that shall have been submitted to and approved in writing by the Local Planning Authority.
- 14) Prior to the commencement of the development hereby approved, details of any external security lighting to be provided as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The security lighting shall take into account the presence of bats in the vicinity of the site and, the proximity of adjoining public highways. It shall be installed and thereafter maintained, in accordance with the approved details. No further lighting shall be installed without first obtaining planning permission from the Local Planning Authority.
- 15) Notwithstanding the provisions of Article 3, Schedule 2, Part 8 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), no extensions or external alterations shall be carried out (other than those expressly authorised by this or any other express permission) to Units 1, 2, 3 and 4 and the link extension between Units 1 and 3 on the site without first obtaining planning permission from the Local Planning Authority.

- 16) There shall be no open storage of refuse, goods or materials other than in areas specifically set aside for this purpose and shown on a plan submitted to and approved by the Local Planning Authority in writing.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or re-enacting that Order), no retail sales shall be conducted from the site without first obtaining planning permission from the Local Planning Authority.