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## Appeal Decision

Site visit made on 8 November 2022

**by Mark Dakeyne BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 November 2022**

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### **Appeal Ref: APP/T2350/Q/22/3295090**

#### **Beacon Holme, Whalley Road, Simonstone, Burnley BB12 7HT**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to modify a planning obligation.
  - The appeal is made by Mrs B Hamley against the decision of Ribble Valley Borough Council.
  - The development to which the planning obligation relates is the erection of a detached granny flat.
  - The planning obligation, dated 3 September 1993, was made between Ribble Valley Borough Council and Mr and Mrs S J Dwyer.
  - The application Ref 3/2021/1040, dated 12 October 2021, was refused by notice dated 1 December 2021.
  - The application sought to have the planning obligation modified as follows: *To modify the restriction of the annexe being sold or let as a separate dwelling to allow the applicant to let the annexe to someone outside the family.*
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### **Decision**

1. The appeal is allowed. The planning obligation, dated 3 September 1993, made between Ribble Valley Borough Council and Mr and Mrs S J Dwyer, shall have effect subject to the modification as set out below:

**Original wording:** *Not to allow the building the subject of the development to be sold or let as a separate dwelling or used other than as domestic accommodation forming part of the property known as Beaconholme, Whalley Road, Simonstone, Burnley, Lancashire.*

**Modified wording:** *Not to allow the building the subject of the development to be sold as a separate dwelling from the property known as Beacon Holme, Whalley Road, Simonstone, Burnley, Lancashire.*

### **Procedural matters**

2. The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 set out the procedures for the modification and discharge of planning obligations under Sections 106A and 106B of the above Act. An obligation can be modified or discharged if it predates 6 April 2010 or is over five years old. The obligation meets this requirement.
3. The documentation accompanying the application refers both to removing and modifying the obligation under Section 106A. In addition, whilst it is

clear that the appellant wishes to be in a position to let the annexe to a separate household, that part of the schedule referring to the building being used only as domestic accommodation forming part of Beacon Holme would prevent this happening. Therefore, I have dealt with the appeal on the basis that the appellant wishes to modify the obligation to allow a separate household to let the annexe.

4. The S106 obligation refers to the property as Beaconholme. However, elsewhere the documentation refers to it as Beacon Holme, as does the sign on the property itself. Therefore, I have amended the house name accordingly in the above decision.

### **Main issue**

5. The test to consider when the modification of an obligation is sought is whether the obligation still serves a useful purpose that would be equally well served if it was modified as proposed. The area of dispute between the Council and the appellant is whether the occupation of the annexe should be restricted to members of the same family that occupy the main house, Beacon Holme or whether it can be let to a separate household.
6. Having regard to the above and the reason for refusal, the main issue is the effect the modification of the obligation would have on the living conditions of the occupiers of the annexe, Beacon Holme, and neighbouring dwellings, with particular reference to privacy.

### **Reasons**

7. The annexe, known as Little Holme, provides a good standard of compact self-contained residential accommodation with a lounge/dining/kitchen area and garage on the ground floor, and bedroom with bathroom spanning the upper floor. The unit provides sufficient space for a single person, couple, or other small household.
8. The front elevation of the annexe is sited about 11m from the rear elevation of Beacon Holme. Whilst some of the main habitable rooms of Beacon Holme face to the front, overlooking the Calder Valley, there are main windows in the rear elevation, such as that serving a kitchen, which would be directly opposite the windows of the living area and bedroom of the annexe. As such the amount of privacy that the occupiers of the two dwellings would enjoy would be less than is normally expected between residents of two dwellings.
9. However, as the appellant would retain ownership, they would be able to maintain control over who occupied the annexe. It may be that the appellant (or successor in title) decides to use the unit as a short term let for holidays or business travel. The expectations and pattern of occupancy of such residents would be different to longer-term users. Alternatively, if rented for a longer period to a small household, the owner of the main house would be able to choose the tenants and ultimately terminate the lease, if they felt uncomfortable with the arrangements. As such the circumstances would be different than those which would occur if the dwellings were in separate ownership.

10. The annexe does not have any windows in its rear elevation apart from a rooflight in the roof slope. Similarly there are no main openings in the side elevations at first floor level. Therefore, a different form of occupancy would not affect the privacy of residents of dwellings to the rear and side of the appeal site.
11. For the above reasons, the modification of the obligation would have acceptable impacts on the living conditions of the occupiers of the annexe, Beacon Holme, and neighbouring dwellings, with particular reference to privacy. There would be compliance with Policies DMG1 and DMH5 of the Ribble Valley Core Strategy<sup>1</sup> as the change would not adversely affect the amenities of the surrounding area.
12. In addition to the annexe's garage, there is ample space on the driveway and on other adjacent hard surfaced areas to provide parking for both the main house and the annexe. Even if the garage was to be converted to living space, adequate parking would remain for both units. The change in occupancy would not materially add to traffic movements. There would be scope within the rear garden to provide a small, enclosed sitting area for users of the annexe. As such the modification would not lead to an over intensive use of the site, harm the character and appearance of the area or cause highway safety issues.
13. It is unlikely that the site owner would exercise permitted development rights. In any event there is nothing before me to indicate how the modification would alter these rights or what harm would arise in such circumstances.
14. The proposed modification would allow a small unit of accommodation in a sustainable location to be added to the housing stock which, whether occupied as a short term or longer term let, would have modest economic and social benefits.
15. For the reasons given above I conclude that the obligation would still serve a useful purpose that would be equally well served if it was modified as proposed. The appeal should be allowed and the obligation modified as set out in the decision.

*Mark Dakeyne*

INSPECTOR

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<sup>1</sup> Core Strategy 2008-2028, adopted December 2014