



Appeal Decision

Site visit made on 22 November 2022

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2022

Appeal Ref: APP/C1435/W/21/3282986

Candleford, Robin Post Stables, Arlington Road West, Hailsham BN27 3RA

- 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 Miss Samantha Champney-Warrener against the decision of Wealden District Council.
- The application Ref WD/2021/0865/FA, dated 01 April 2021, was refused by notice dated 24 June 2021.
- The application sought planning permission for the erection of bungalow for use in association with equestrian business without complying with conditions attached to planning permission Ref WD/2011/2182/FR dated 27 June 2012.
- The conditions in dispute are Nos 8, 9 and 10 which state that:
 8. *The dwelling hereby approved shall have a gross external floor area not exceeding 164 square metres (which shall include the farm office), with no habitable rooms in the roof space created.*
 9. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking re-enacting or modifying that Order), no windows, dormer windows, rooflights or door other than those expressly authorised by this permission shall be constructed on any elevation.*
 10. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended or any order revoking and re-enacting that order with or without modification) no building structures alterations, installations or operations, as defined within classes A to H of part 1 of schedule 2 of the order, shall be carried out on the site otherwise than in accordance with the planning permission granted by the Local Planning Authority*

The reasons given for condition 8 are: *To reserve suitable residential accommodation for persons employed locally in the equestrian enterprise undertaken on site or agriculture having regard to Saved policies DC2 and DC17 of the Wealden Local Plan and policies DC2 and DC15 of the Non- Strategy Wealden Local Plan along with the requirements of paragraph 55 of the National Planning Policy Framework 2012.*

- The reasons given for conditions 9 and 10 are: *To reserve suitable residential accommodation for persons employed locally in the equestrian enterprise undertaken on the site or agriculture having regard to Saved Policy DC2 of the Wealden Local Plan and Policy DC2 of the Non Statutory Wealden Local Plan and to enable the Local Planning Authority to regulate and control the development of land, having regard to Saved Policies EN8 and EN27 of the Wealden Local Plan and Policies NE7 and BE1 of the Non Statutory Wealden Local Plan, along with the requirements of paragraphs 17, 55 and 109 of the National Planning Policy Framework 2012.*

Decision

1. The appeal is dismissed

Main Issues

2. The main issues are: if the conditions are necessary and reasonable, and if removed/modified the size of the dwelling would be commensurate to the functional requirements of the rural enterprise and could be suitably retained for future rural workers.

Procedural and Preliminary Matters

3. The appellant seeks the full removal of conditions 8 and 9, and a modification of condition 10 to: -

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (as amended) (or any order revoking and re-enacting that order with or without modification), no buildings, structures, alterations, installations or operations, as defined within classes A, AA, D, E, F, G and H of Part 1 of Schedule 2 of the order, shall be carried out on the site otherwise than in accordance with a planning permission granted by the Local Planning Authority.

4. This would enable permitted development rights under classes B and C which allow for additions and alterations to the roof of a dwellinghouse.
5. Since the application was determined a revised National Planning Policy Framework (the Framework) has been introduced, July 2021. The reason for refusal identifies specific paragraphs which do not directly correspond to the latest Framework. Both main parties in their appeal statements have updated these references and referred to changes in national policy since the original planning permission for the property was granted. Therefore, references in my decision to the Framework are to the current July 2021 version unless otherwise stated.

Reasons

Background and context

6. Planning permission was first granted for a bungalow on the site in association with the equine business in 2010 (Council reference WD/2009/1846/FR). The dwelling erected was larger than that approved, both in terms of floor area and height, and permission was subsequently granted for that development in 2012 (Council Reference WD/2011/2182/FR). In 2013 permission was also granted for the addition of a conservatory and a garden shed (Council reference WD/2013/1173/F).
7. The dwelling is tied to the Robin Post Stables by a condition and a S106 legal agreement. This proposal does not seek to alter these restrictions and the dwelling would continue to be occupied in association with the equine business.
8. The detached dwelling with an enclosed rear garden is encompassed by the land associated with the equestrian enterprise which includes an extensive area of stables, equine facilities, and paddocks including land to the other side of the road. All the residential accommodation is on a single level, although the dwelling has an extensive half hipped roof and internally the loft space is of a

height to be fully usable. The dwelling is within the open countryside and whilst there are other sporadic residential properties nearby the site has a distinctive rural appearance.

Wealden Local Plan - Policy DC2

9. While some of the planning policy context has changed since the conditions were originally imposed, policies of Wealden Local Plan 1998 (WLP) and national policy continue to generally resist new dwellings outside development boundaries. The dwelling at Robin Post Stables was established pursuant to the exception of WLP saved policy DC2 which allows for dwellings for those employed in agriculture or forestry where a countryside location is necessary subject to a number of criteria.
10. As indicated by the appellant, and set out in the WLP, those criteria are reflective of the detailed guidance on agricultural worker's dwellings which was found in the national Planning Policy Statement 7: Sustainable Development in Rural Areas but is not found in the Framework. Nonetheless, paragraph 80 of the Framework does indicate that an essential need is required to support a dwelling for a rural worker and, therefore, there remains a necessity to support such proposals with evidence of a functional need. As such, while the WLP is dated I find that the aims of policy DC2 are broadly consistent with the Framework. I acknowledge that some of the criteria may no longer be as relevant, but, in my view, that is a matter of weight to be given to them as part of the judgement in applying that policy, rather than, as suggested by the appellant, that the policy as a whole is out of date. Accordingly, I do not find that the tilted balance as set out in paragraph 11 of the Framework (applying to policy DC2 as the policy most important for determining the application) is engaged.

Conditions

11. As set out in paragraph 56 of the Framework 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.
12. All three of the conditions restrict alterations and extensions to the dwelling. The Planning Policy Guidance (PPG) advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
13. A rural worker's dwelling is however an exception. If permitted development rights were to be reinstated and the size limit removed, it would be possible to make alterations to the dwelling that could considerably extend its size beyond that which is commensurate with the established functional need. To this extent, and without such a condition, there is potential for the resultant dwelling to conflict with Policy DC2.
14. The appellant has referred to a 2015 appeal decision¹ in Somerset which indicated that the policy restrictions on the size of a dwelling for an agricultural worker were no longer supported by national policy. The full details of that case nor the specific policy are not before me. However, in contrast to that case which was for a single storey extension, this proposal seeks the blanket

¹ APP/H3320/W/15/3006586

removal of the conditions. Moreover, that Inspector concluded that there was no evidence that the small-scale enlargement would be at odds with the functioning of the associated equestrian business or give rise to affordability problems in the future.

15. The appellant indicates that the removal of the conditions would enable the roof space to be utilised for accommodation and could be occupied without any external changes. Be that as it may, the scale of the roof and its floorspace is a result of how the dwelling was constructed, rather than having formed part of the functional needs.
16. I acknowledge that neither WLP policy DC2 or the Framework set out a maximum size for a rural worker dwelling. Yet, while the existing dwelling only has two bedrooms it is not small and has been extended. Utilisation of the roof space would increase the size of the dwelling by approximately three quarters of that initially permitted² and this could be increased further through dormer windows and other alterations if permitted development rights were available. There is no specific evidence to suggest that this scale of dwelling would be directly commensurate with the functional operation of the equine enterprise, and a substantial increase in floor area would undoubtedly impact on affordability.
17. Thereby, whilst I have no reason to disagree with the Inspector in the Somerset case that extending a rural worker's dwelling may not necessarily conflict with aims of the Framework in supporting thriving rural communities, this does not imply that any restrictions on such dwellings are also in conflict. There are several objectives to consider including, as noted by the Council, the housing needs of different groups in the community which is supported by paragraph 62 of the Framework and which policy DC2 seeks to support in relation to the long-term availability of accommodation for rural workers.
18. Additionally, the conditions do not necessarily prevent all alterations, rather they ensure that the effects can be considered. The appellant purports that the increased floorspace would both support the equestrian business and family requirements by providing flexibility. Without a defined proposal and further details the functional needs cannot be fully assessed, and this appeal is not the format for such an assessment.
19. I have considered whether all three conditions are necessary, however, given the background and the form of the dwelling the conditions work together to limit it to a scale which was found to be commensurate with the established functional needs of the equine business.
20. For the collective reasons outlined above, I therefore conclude that conditions 8, 9 and 10 continue to be justified in terms of being both reasonable and necessary in order to afford appropriate control relating to the effects of possible future development in order to ensure that the existing dwelling continues to be associated with the essential needs, and supports the housing requirements of rural workers pursuant to Policy DC2 of the WLP and the Framework (paragraphs 78, 79 and 80).

² The appellant indicates that the floor area of the roof space is 114sqm and the initial permission had a gross floor space limit of 150sqm.

Other Matters

21. From what I saw on site and the information before me, the Robin Post Stables is a well-established and run rural enterprise which makes a positive contribution to the economic and environmental management of the countryside. I also accept that an internal increase in floorspace would have no impact on the landscape, and that the location is not isolated. Nonetheless, these matters do not outweigh the conflict with the development plan and the need for the conditions as I have identified.

Conclusion

22. For the reasons given, and taking into account all other matters raised, I conclude that this appeal should be dismissed.

G Ellis

INSPECTOR