



Appeal Decision

Site visit made on 19 September 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: APP/E3335/W/23/3320366

Beacon Lane Farm, Beacon Lane, Voxmoor, Wellington TA21 9NX

- 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 Mrs J Coate against the decision of Somerset Council.
 - The application Ref 44/22/0012, dated 28 October 2022, was refused by notice dated 18 January 2023.
 - The application sought planning permission for conversion of dog breeding kennels to 2 No. self contained holiday accommodation units with change of use of dog washing/grooming/prep building to laundry and drying room and use of ancillary residential accommodation as managers dwelling at Beacon Lane Farm, Beacon Lane, Voxmoor, Wellington without complying with a condition attached to planning permission Ref 44/21/0003 dated 4 October 2022.
 - The condition in dispute is No 8 which states that: *The occupation of the residential floor space identified as 'Dwelling' on DrNo 376L/1A, shall be limited to a person solely or mainly working, within the buildings identified as 'Unit 1 and Unit 2' on Dr No. 376/L1A at Beacon Lane Farm, and to any resident dependants.*
 - The reason given for the condition is: *The site lies in area where new residential development is generally restricted to that for which there is a proven functional need. As a bespoke use the Local Planning Authority wish to ensure that the occupation of the residential floor space (Dwelling) at Beacon Lane Farm continues to be occupied in conjunction with the business use at the site (holiday lets identified as Unit 1 and Unit 2 of Dr No 376/L1 A) in accordance with Taunton Deane Core Strategy policy DM2.*
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Decision

1. The appeal is allowed and planning permission is granted for conversion of dog breeding kennels to 2 No. self contained holiday accommodation units with change of use of dog washing/grooming/prep building to laundry and drying room and use of ancillary residential accommodation as managers dwelling at Beacon Land Farm, Beacon Lane, Voxmoor, Wellington TA21 9NX in accordance with the application Ref 44/22/0012 dated 28 October 2022, without compliance with condition number 8 previously imposed on planning permission Ref 44/21/0003 dated 4 October 2022 and subject to the conditions in the attached schedule.

Preliminary Matter

2. The appeal was submitted against the decision of Somerset West and Taunton Council. Since the submission of the appeal, Somerset West and Taunton Council have merged with other Councils to form Somerset Council. As a result, I have referred to Somerset Council in the banner heading above.

Background and Main Issue

3. Planning permission was granted on the site on the 17 January 2012 (reference 44/11/0020) for change of use of land and conversion of redundant agricultural buildings to form a dog breeding enterprise with ancillary residential space. This included Condition number 7 that restricted the residential floorspace forming 'Range A' to 'a person solely or mainly working within the buildings identified as Range B and Range C on drawing number 201/GB1 at Beacon Lane Farm and to any resident dependents'.
4. During the conversion works for that consent, the building comprising Range B partially collapsed. As a result, on the 23 May 2017, planning application 44/15/0024 was granted. As it was determined that Condition number 7 to the previous consent would no longer cover the replacement building, its occupancy was restricted by a Section 106 Legal Agreement. This agreement restricted occupation to a person solely or mainly or last working within the employment units, or, in the event that person dies whilst residing at the residential accommodation, a widow or widower of such a person. The Agreement also allowed any resident dependents provided this is at the same time as the person working or last working within the units or dies whilst residing in the residential accommodation.
5. Following this, on the 4 October 2022, planning permission under reference 44/21/0003 ("the original permission") was granted. This was subject to 9 conditions including Condition 8 the subject of this current appeal that restricted the occupation of the residential floorspace to a person solely or mainly working within the holiday accommodation identified as Unit 1 and Unit 2. The planning permission has not been implemented.
6. The appellant seeks to vary Condition 8 to allow occupation of the residential accommodation by persons employed in the holiday accommodation (removing the requirement that they be solely or mainly working within the holiday accommodation), a person last employed in the holiday accommodation or a widow or widower or dependant.
7. The main issue is therefore whether the condition is reasonable and necessary to justify the location of the dwelling in the countryside.

Reasons

8. The original planning permission was granted for two self-contained holiday units with associated managers residential accommodation. This follows the previous planning permissions on the site for commercial units with an associated residential space for a person working within the commercial buildings. There is therefore a history of residential accommodation on the site associated with commercial use of the other buildings.
9. In light of the S.106 Agreement referenced above, at present the residential accommodation on the site can be occupied by a person solely or mainly or last working within the employment units and any resident dependents, or, in the event that person dies whilst residing at the residential accommodation, a widow or widower of such a person and any dependents.
10. Condition 8 of the original permission the subject of this appeal, is more restrictive as it does not allow for occupancy of the residential accommodation

by a person last employed in the associated holiday accommodation or a widow or widower or dependant.

11. I have had regard to the evidence from the council that occupation of the residential accommodation by a person last employed in association with the holiday accommodation or widow/widower or dependent, would result in the occupation of the residential accommodation being unrelated to the holiday accommodation. The Council's state that the planning history of the site and link to the holiday accommodation formed part of the justification for allowing the associated residential accommodation in a location that they deem would not usually be supported by Policies DM2 and CP8 the of the Adopted Taunton Deane Core Strategy 2011-2028 Development Plan Document September 2012 (CS).
12. Whilst acknowledging the Council's evidence, the S.106 agreement on the site already allows for a situation similar to that proposed by the appellant. Moreover, the inclusion of the words 'last employed' in the appellants proposed condition would prevent occupation of the residential accommodation by a person who now works solely on a permanent basis elsewhere. The link between the residential accommodation and holiday units would therefore remain under the amended wording to condition 8 as suggested by the appellant. I see no reason why the lack of need to be within 'site and sound' of the holiday accommodation justifies a more restrictive wording.
13. It is also common practice and reasonable with proposals involving rural accommodation associated with commercial enterprises, such as agricultural workers dwellings, for a person to remain in the accommodation when they retire or for the accommodation to be occupied by that persons' widow, widower or dependent. Again, the S.106 Agreement in relation to application 44/15/0024 already allows this with the wording of the condition to the first related application 44/11/0020 not in itself justifying the use of the same wording. As a result, the wording to condition 8 is overly restrictive.
14. I now turn to the matter of removal of the requirement in Condition 8 of the original permission for the occupier of the residential accommodation to be solely or mainly working within the holiday accommodation. In light of the residential accommodation only serving two holiday units, it seems to me that this would be unlikely to generate enough work to occupy somebody full-time over a working week. As a result, it would be unreasonable to prevent the person employed in association with the two holiday units from seeking other employment elsewhere to supplement their income should they wish to do so. The wording of the appellant's proposed condition is such that they would still need to be employed in association with the holiday accommodation retaining the link between the residential accommodation and holiday units.
15. The Council reference conflict with Policy DM2 of the CS in their decision notice in relation to the appellant's alternative wording. However, the proposal would retain a suitable tie between the residential and holiday accommodation, and I note that this policy supports the conversion of relevant existing buildings to holiday and tourism uses following business uses and ultimately allows other residential uses in exceptional circumstances. The history of allowing residential floorspace at the site associated with other uses, and proposal to link the residential accommodation to the two holiday units, provides an exceptional circumstance to allow residential accommodation associated with

the two holiday units. A totally unrestricted dwelling would not comply with Policy DM2 and as a result a suitably worded condition is necessary and reasonable linking the dwelling to the holiday accommodation. As the proposal is supported by Policy DM2 of the CS, there is no conflict with Policy CP8 that allows development outside of settlement boundaries where in accordance with a local policy for development.

16. Accordingly, in light of the above, and although a condition is necessary to justify the location of the dwelling in the countryside, the wording is unreasonable. However, I find the appellant's alternative wording to be reasonable. As a result, the appeal proposal accords with Policy DM2 of the CS that, amongst other things, supports holiday and tourism uses in the countryside, and other residential uses in the countryside in exceptional circumstances.

Other Matters

17. The lack of objection to the wording of the related condition to application 44/11/0020 does not justify the imposition of a similar condition to a subsequent proposal on the site that must be considered on its merits. I therefore give this little weight.
18. The Council's evidence raises concern regarding the amended wording of the condition resulting in harm to the Blackdown Hills Area of Outstanding Natural Beauty (AONB). However, given that the proposal would not change the external appearance of the buildings, or be likely to result in any increased activity, noise, or disturbance over and above the existing use of the site, it would not be out of character with, and would conserve and enhance the landscape and scenic beauty of the AONB.

Conditions

19. The Planning Practice Guidance (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. I note that the Council and appellant do not suggest any changes to those conditions originally imposed.
20. For the avoidance of doubt, other than amending Condition 8 to reflect my findings above and amending the time limit condition to reflect the date of the original permission, I have not made any alterations to the remaining conditions within the 2022 consent for which no change is sought.

Conclusion

21. For the reasons given above, and having regard to all relevant material considerations, the amended wording to Condition 8 is reasonable and necessary and the proposal would accord with the development plan. As a result, the appeal is allowed and planning permission granted without compliance with condition number 8 previously imposed and subject to the conditions in the attached schedule.

C Rose

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the 4 October 2022.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - (A2) DrNo ARPC1 Location Plan
 - (A2) DrNo ARPC 2 Self Catering Holiday Cottage Accommodation
 - (A3) DrNo 376/L1A Block & Location Plans
 - (A3) DrNo 376/S2 Elevations as Existing Sheet 1
 - (A3) DrNo 376/S3 Elevations as Existing Sheet 2
 - (A3) DrNo 376/S1A Floor Plans as Existing
 - (A3) DrNo 376/P1A Floor Plans as Proposed
 - (A3) DrNo 376/P2 Elevations as Proposed Sheet 1
 - (A3) DrNo 376/P3 Elevations as Proposed Sheet 2
 - (A3) DrNo 376/P4 Plans & Section Living Accommodation
 - (A3) DrNo 376/P5A Elevations Living Accommodation
 - Foul Drainage / Change of use and the likely significant effect on nutrient neutrality at Beacon Lane Farmhouse Voxmoor Wellington Somerset - additional data 4th Reply as submitted by agent on 1st July 2021.
3. The approved development shall only be carried out in accordance with the following approved documents and maintained thereafter:
Foul Drainage / Change of use and the likely significant effect on nutrient neutrality at Beacon Lane Farmhouse Voxmoor Wellington Somerset – additional data 4th reply by Ecological initiatives
4. Prior to occupation, a 'lighting design for bats', following Guidance note 8 – bats and artificial lighting (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
5. The following shall be integrated into the design of the proposal 1x Schwegler 1B conservation Bat Box and 1x Schwegler 2H bird boxes will be installed on retained trees at the boundary and maintained thereafter. A Conservation bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation and maintained thereafter. Plans and photographs of the installed features will be submitted to and agreed in writing by the Local Planning Authority prior to first use.

6. The development hereby approved shall not be occupied or the use commenced until space has been laid out, drained and surfaced within the site in accordance with the approved plan(s) for the parking of vehicles, and such area(s) shall not thereafter be used for any purpose other than the parking of vehicles associated with the development.
7. The two holiday lets shall be occupied for tourism purposes only.
The two holiday lets shall not be occupied as a person's sole or main residence.
The site operator or owner shall maintain an up to date register of the names of all owners/occupiers of individual holiday lets on the site and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.
8. The occupation of the dwelling identified on Drawing No. 376/L1A shall be limited to a person employed, or last employed in the buildings identified as 'Unit 1 and Unit 2' on Drawing No. 376/L1A, or a dependant of such a person residing with him or her, or a widow or widower of such a person.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no extensions, alterations, outbuildings, gates, walls, fences or other means of enclosure, shall be erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

*****END OF SCHEDULE*****