



Appeal Decision

Hearing held on 6 November 2024

Site visit made on 5 and 6 November 2024.

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/E3335/W/24/3346996

Hillview Barn, Adsborough Lane, Creech St Michael, Taunton, Somerset, TA2 8RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Philip Hill against the decision of Somerset Council.
 - The application Ref is 14/24/0005.
 - The application sought planning permission for the variation of condition no. 11 (seasonal workers accommodation) of application 19/09/0043 at Hill View Barn, Adsborough without complying with a condition attached to planning permission Ref 14/19/0025, dated 20 September 2019.
 - The condition in dispute is No 3 which states that: *The occupancy of the Hill View Barn shall be limited to employees of the West Newtown Fruit Farm or any other person or persons working in farming operations or forestry on land that forms part of the established farm holding in connection with Hill View Barn. The site operator or owner shall maintain an up to date register of the names of all occupants of Hill View Barn, their employment status, and duration of stay at the accommodation, and shall make this information available at all reasonable times to the Local Planning Authority.*
 - The reason given for the condition is: *The site lies in area where residential use is generally restricted to that for which there is a proven need.*
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Decision

1. The appeal is allowed and planning permission is granted for the removal of Condition No. 03 of application ref: 14/19/0025 at Hillview Barn, Adsborough Lane, Creech St Michael, Taunton, Somerset, TA2 8RP in accordance with the terms of the application, Ref 14/24/0005, and the plans submitted with it.

Preliminary Matters

2. I undertook an unaccompanied site visit on the afternoon of 5 November 2024 to enable me to familiarise myself with the site. At that time, I viewed the site from nearby roads. I undertook a further site visit of the appeal site itself and immediate environs the afternoon of the hearing.

Main Issue

3. Whether the disputed condition to limit the occupancy of the approved dwelling is necessary and reasonable, having regard to development plan policy and the National Planning Policy Framework.

Reasons

4. The appeal site is located off Adsborough Lane. The site consists of a single storey detached dwelling, formerly an agricultural barn, located adjacent to agricultural land and residential dwellings that are part of the village of Adsborough.
5. The dwelling was permitted to fulfil a need that had been demonstrated for a worker to live on site to support the fruit enterprise at West Newton Fruit Farm at that time. The appellant puts forward that, due to the fruit business no longer operating, there is now no longer a need for the dwelling to be subject to condition No 3 of the permission, which restricts the occupation of the dwelling to people working at West Newtown Fruit Farm or people working in farming or forestry on land within the holding associated with Hill View Barn.
6. Policy SP1 of the Taunton Deane Borough Council Core Strategy (2012) (CS) directs growth to the most sustainable and accessible locations, with Taunton being a focal point for development. It states that sites beyond identified settlements, are within the designated open countryside. The appeal site is located outside any defined settlement limit and is therefore treated as open countryside in respect of Policy SP1 of the CS.
7. CS Policy CP1 requires that developments result in a sustainable environment and will be required to demonstrate that the issue of climate change has been addressed by a number of criteria, including reducing the need to travel through locational decisions.
8. The appeal site is located to the north of Taunton which has a wide variety of services and facilities, including primary and secondary schools, supermarkets, GP surgeries and employment opportunities. I also saw that there was a bus stop on the main road, approximately a 10 minute walk from the appeal site, and I have been provided with a timetable that details a regular service to and from Taunton. Whilst the walk would be along an unlit rural lane, it is only a short distance and there are a number of areas where cars can pass pedestrians safely. As such, whilst the site is located in the open countryside, there is reasonable access to services, facilities and employment opportunities required for day to day living such that there would be no conflict with Policy CP1 of the CS if the existing dwellings were to be occupied by persons not employed at the fruit or farming enterprise.
9. CS Policy DM2 of the CS relates to development in the countryside and details which uses would be supported. DM2 (7) relates to the conversion of existing buildings, and states that proposed uses of buildings must follow a sequential approach. Whilst the appeal building was a conversion, the works were completed a number of years ago and it has been occupied as a dwelling since. As a result of the proposal the dwelling would remain a C3 use, as such no conversion works would be undertaken. I therefore do not find that CS Policy DM2 is relevant to the appeal proposal.
10. Policy H1a of the Taunton Deane Adopted Site Allocations and Development Management Plan (2016) (SADMP) specifically relates to permanent housing for rural workers. It states that the removal of occupancy conditions will not be permitted unless the dwelling is no longer needed for that unit for the purposes of agriculture or other rural based enterprises; there is no current demand for dwellings for agricultural or other rural based industries in the

locality; and the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.

11. The appellants submission details that the farm holding extends to some 165 acres, of which 30 – 35 acres were used for the fruit element of the enterprise. The remaining land being used to grow arable crops. The fruit element employed approximately 80 seasonal workers and 4 full time employees. Due to the retirement of two of the three directors, the fruit enterprise ceased trading in 2022 and the full-time employees were made redundant and no seasonal workers have been employed since.
12. Whilst the arable side of the enterprise continues, the directors all live at West Newton Fruit Farm or locally. During the Hearing it was clarified by the appellant that, whilst additional labour is sometimes required, this is during harvest where specialist machinery is required and local contractors are used. As such, no full-time workers, outside the remaining director, are required on the farming enterprise.
13. Whilst the Council consider that insufficient information has been submitted to demonstrate that the dwelling is no longer needed, the appellant has provided details of the operation of the enterprise and financial information relating to employee numbers.
14. In light of the above, the information submitted by the appellant, and in the absence of any evidence to the contrary, the dwelling is no longer needed for the unit for the purposes of agriculture or other rural based enterprises. The proposal would therefore comply with criteria SADMP Policy H1a i).
15. The construction of the disputed condition only permits employees of West Newton Fruit Farm or those working in farming or forestry on land that forms part of the established farm holding in connection with Hill View Barn. The condition does not allow the dwelling to be occupied by persons in agricultural or other rural based industries in the locality. As such, even if there was a demand for such dwellings, local workers would not be allowed to occupy the dwelling. Therefore, there would be no conflict with SADMP Policy H1a ii).
16. No marketing of the dwelling for sale or rent has been undertaken. Marketing the dwelling for sale or rent to workers in the locality, would be hindered by the wording of the conditions as potential occupiers would not be able to comply with the condition. The wording of the condition means that the dwelling can only be sold or rented by employees of the fruit farm and associated arable enterprise. Whilst the Council consider that marketing could be undertaken, caveated with the requirement for planning permission, this would be undermined by the wording of the condition.
17. As such, there would be a conflict with SADMP Policy H1a iii) due to the lack of marketing, however, I can only attribute limited weight to this conflict due to the limited marketability of the dwelling.
18. Having reached the conclusions above, it has been adequately demonstrated that there is no longer a continuing need for the dwelling on the enterprise, condition No 3 is therefore no longer necessary. Whilst I have found conflict with SADMP Policy H1a iii) this is limited. Overall, the proposal complies with CS Policies SP1, CP1, CP6 and DM2 and SADMP Policies H1a i) and ii) and SB1.

Together these seek to ensure that developments are located in sustainable locations and that occupancy conditions are not removed unless adequately evidenced.

Other Matters

19. At the Hearing, the Council suggested that the condition could be varied to provide a broader occupancy condition. The variation of a condition is not before me, and I have determined the appeal based on the proposal before me. In any event I have found that the proposal complies with the development plan as a whole and therefore amending the condition would not be reasonable.

Conditions

20. The guidance in the Planning Practice Guidance makes clear that decisions for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. The Council have suggested a number of conditions, however most of these are not included on the permission and relate to an earlier development. The decision notice to which this appeal relates, 14/19/0025, only has conditions relating to the time for development to commence (1), plans (2) and the occupancy condition (3).
21. As the development has been completed, I see no reason that condition 1 and 2 should be reimposed. As I have concluded that condition 3 should be removed, no conditions are therefore attached.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition.

Tamsin Law

INSPECTOR