



Appeal Decisions

Hearing held, and site visit made, on 14 January 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th January 2025

Appeal A Ref: APP/V0510/C/24/3353103

Appeal B Ref: APP/V0510/W/24/3350776

Land known as Old Tiger Stables House, 22A Northfield Road, Soham, Cambridgeshire CB7 5UF

- Appeal A is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mrs Lorraine Webster against an enforcement notice issued by East Cambridgeshire District Council (the Council). The notice was issued on 13 September 2024.
- Appeal B is made under section 78 of the Act against a refusal to grant planning permission under section 73 of the Act for the development of land without complying with condition 10 attached to planning permission Ref E/91/0367/O granted on 4 November 1992. The appeal is made by Mrs Lorraine Webster against the decision of the Council. The application Ref is 24/00300/VAR.
- The breach of planning control as alleged in the notice is the failure to comply with condition 10 imposed on planning permission ref E/91/0367/O granted on 4 November 1992.
- The development to which the permission relates is: 'Proposed 1 1/2 Storey Dwelling & Garage for Stable Owner'. Condition 10 of E/91/0367/O states: 'The proposed dwelling shall be first occupied by Miss L Webster and any dependents residing with her and thereafter by a person(s) involved in the management of the adjacent livery business currently known as Old Tiger Stables. Reason: The dwelling hereby permitted is sited in a rural area outside any established settlement where the Local Planning Authority would not normally grant consent for such a development except to fulfil an essential rural need'.
- The notice alleges that the condition has not been complied with in that the dwelling is occupied by person(s) not involved in the management of any livery business operating from the adjacent land previously occupied by the livery business known as Old Tiger Stables.
- The requirement of the notice is: Cease the occupation of the dwelling by person(s) not involved in the management of any livery business operating from the adjacent land previously occupied by the livery business known as Old Tiger Stables.
- The period for compliance with the requirement is 12 months from the date the notice takes effect.
- Appeal A is proceeding on the ground set out in section 174(2)(a) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act in Appeal A.

Summary of Decisions: The appeals are allowed, the notice is quashed, and planning permissions are granted in the terms set out below in the Formal Decisions.

Preliminary Matter

1. The dwelling is subject to a planning obligation dated 4 November 1992. The appeal form and correspondence in Appeal B refer to the proposed removal of Clause 2(b) of the planning obligation, but there is no appeal form relating to the modification of the planning obligation. Furthermore, I have not been provided with evidence that a formal application was made under section 106A of the Act to modify the planning obligation.
2. The Council was under the impression that it considered and determined an application to modify the planning obligation, but the application form was submitted under section 73 of the Act. Having regard to The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992, there is no application/appeal for me to consider under section 106B of the Act. It

therefore remains a matter between the relevant parties as to whether the planning obligation should be modified.

Main Issues

3. Appeal A has been lodged under ground (a) only. The deemed planning application in Appeal A is for the dwelling and garage without complying with condition 10 (the Condition) attached to planning permission reference E/91/0367/O.
4. The main issues are whether the Condition should be discharged without being substituted for another condition and whether planning permission should be granted for the dwelling without complying with the Condition, with particular regard to the Council's locational strategy for dwellings.

Reasons

5. Livery business activities ceased at the site in 2022 and have since relocated to an unconnected site on the other side of Soham. The appellant no longer lives at the site, and the dwelling is occupied by people who are not involved in the management of a livery business. In these circumstances, no-one can occupy the dwelling in compliance with the Condition unless and until livery business activities recommence at the site. In the meantime, it is not impossible to comply with the Condition because ceasing occupation of the dwelling altogether would also achieve compliance.
6. The site is located in the countryside, outside the defined development envelopes referred to by Policy GROWTH 2 of the East Cambridgeshire Local Plan (2023) (the ELP). Amongst other things, Policy GROWTH 2 states that development will be strictly controlled outside defined development envelopes, where it will be restricted to specified categories which may be permitted as exceptions. It is not disputed that the development falls within the exception category to which Policy HOU 5 of the ELP applies.
7. Policy HOU 5 explains that permanent dwellings in the countryside for full-time workers in agriculture, horticulture, forestry, stud and other rural activities will be permitted as an exception to the normal policies of control where specific criteria are met. Where a dwelling is permitted in the countryside, its occupancy will be restricted to ensure occupation by such persons, or their surviving partner or dependents. A rural worker occupancy condition is therefore reasonable and necessary to make the dwelling acceptable in planning terms, with regard to paragraph 57 of the National Planning Policy Framework (the Framework). It does not follow, however, that the site-specific wording used in the Condition is also reasonable in this instance.
8. Policy HOU 5 clarifies that the removal of an occupancy condition related to rural workers will only be permitted where three criteria are met. The Condition is an occupancy condition related to rural workers, and its removal therefore accords with Policy HOU 5 where those three criteria are met. There is no dispute that the third criterion of Policy HOU 5 has been complied with, as the property was offered to four local social landlords.
9. The other two criteria of Policy HOU 5 need to be read in the context of the policy as a whole and its supporting text. With this in mind, the first criterion requires it to be shown that there is no longer a need for rural worker accommodation on the

holding/business and in the local area, rather than just an on-site livery business in this case. There is currently no need for accommodation of people involved in a livery business at the site, but it remains unclear whether there is any need for rural worker accommodation locally.

10. There has been no marketing of the site, as required by the second criterion of Policy HOU 5. Although the appellant may have concerns about the intentions that potential purchasers may have for the site, these are not supported by reliable evidence. In the absence of any marketing of the site, it is difficult to lend significant weight to claims that no-one would be able to occupy the dwelling in compliance with the condition.
11. There is limited detailed evidence to show that a livery business would be unviable for any operator, although I note the appellant's predicament in that she owns insufficient suitable grazing land to allow full use of the equine facilities, which are in need of renovation. Any future livery business would be reliant on investment in existing facilities and the use of grazing land outside the site. In any case, there is insufficient evidence to show it is unlikely another livery business operator would find a viable solution while occupying the dwelling in compliance with the Condition.
12. Mr Smith owns nearby land which was previously rented to the appellant for grazing, and he claims to be interested in buying the site to possibly use it for livery business purposes. Mr Smith's claims are not supported by any reliable evidence of him having the funding or experience necessary to oversee a viable livery business. Furthermore, he has not made a reasonable offer to purchase the site. However, he owns nearby land which would be suitable for grazing and has claimed he was waiting for the site to be marketed. In light of this, without the site being marketed at a reasonable price for a reasonable period, I am unconvinced that a livery business would be unviable or that there would be little merit in marketing the site as specified by Policy HOU 5.
13. The Condition is necessary to make the dwelling acceptable in planning terms on account of its location outside defined development envelopes. It is not, however, reasonable because it ties the occupancy of the dwelling very specifically to a livery management worker at the site, when the dwelling is not so closely integrated with livery facilities as to prevent it reasonably being occupied by other rural workers in accordance with Policy HOU 5. The Condition also fails to anticipate changes in the operation of livery businesses on the constrained site, which would be reliant on grazing land elsewhere, especially since the development of two houses on former grazing land.
14. Bringing things together, the requirements of the Condition are unreasonably narrow, when a more generic rural worker occupancy condition would achieve the same planning aims while according with the development plan. The Condition therefore needs to be discharged. It remains unclear whether a livery business would be viable at the site or whether there is any need for accommodation on the holding or any such business and in the local area for a rural worker. Furthermore, it has not been shown there would be little merit in marketing the property.
15. I therefore find that discharging the Condition without it being substituted for another rural worker occupancy condition, or granting planning permission without such a condition, would conflict with the Council's locational strategy for dwellings set out in Policies GROWTH 2 and HOU 5 of the ELP.

16. An alternative condition following the terms set out in Policy HOU 5 would ensure the dwelling accords with the development plan. Specifically, the alternative condition needs to restrict the occupancy of the dwelling to a person solely or mainly working, or last working, in the locality in agriculture, horticulture, forestry, stud and/or other equine activities, or a surviving partner and any dependents of such a person. Such a condition would be reasonable and necessary to make the development acceptable in planning terms, and less onerous than the Condition.

Other considerations

17. Planning permission¹ was granted by the Council in 2017 for two houses on former grazing land which previously formed part of a livery business at the site. The Council did not impose any conditions controlling the occupation of those houses, contrary to Policies GROWTH 2 and HOU 5. I have not been provided with the full details of that planning permission, but I have been referred to points made in the relevant officer report and committee minutes, particularly those relating to the sustainability of the site. The Council has suggested that the reason for that planning permission being granted without an occupancy condition attached was a lack of a five-year housing land supply at the time. It is not disputed that the Council can currently demonstrate a five-year supply of deliverable housing sites.
18. Even if the Council previously found this location to be sustainable for new housing development, there is very little evidence to lead me to the same conclusion. The site is outside defined development envelopes, in a location which is characterised by open countryside interspersed with occasional farm buildings and dwellings. It is served by an unlit winding road with no accompanying footway, and I have not been referred to any nearby public transport options. Everything I have read, heard and seen suggests the site is not a sustainable location for new housing development in the context of the development plan and the Framework.
19. Another Inspector² found that a similar occupancy condition relating to a horticultural business in another part of the country should be removed without that site being marketed. From the information provided there are a number of notable differences between the circumstances in that case and these appeals; not least that the Inspector found it unlikely anyone would wish to purchase the horticultural business and keep it going, but also that the main parties agreed the horticultural business was not viable. In addition, the Inspector did not examine whether the occupancy condition should have been varied other than to allow occupation by someone last employed in that horticultural business. In contrast, variation of the Condition is a matter raised in this case.
20. Case law emphasises the importance of consistency in planning decision making. For the above reasons, the other decisions referred to do not lead me to find that the Condition should be discharged or planning permission otherwise approved without a rural worker occupancy condition substituted/attached. My reasoning in this case is not inconsistent with the other decisions referred to, where very different circumstances applied.
21. The main parties agree that conditions 1 to 5 and 7 to 11 of the original planning permission are no longer necessary to make the development acceptable where a new planning permission is issued in Appeal B, and I see no reasons to find

¹ The Council's ref: 17/00291/FUL

² Ref: APP/F3545/W/20/3256501

differently. The new planning permission issued in Appeal B shall therefore only have a condition requiring the parking and turning area to be retained, alongside the new occupancy condition. This would repeat the requirements of condition 6 and ensure the development remains acceptable in respect of highway safety.

Conclusions

22. The Condition is unreasonable, and it is appropriate for it to be discharged. Discharging the Condition without it being replaced by a substitute occupancy condition relating to rural workers in the local area would conflict with the Council's locational strategy for dwellings. As such, this would be contrary to the development plan taken as a whole. There are no material considerations in this case which indicate the Condition should be discharged without being substituted, or that planning permission should be granted for the dwelling without an occupancy condition related to rural workers. I have found that a condition restricting the occupancy of the dwelling to rural workers would be reasonable and necessary to make the dwelling acceptable in planning terms.
23. For the reasons given above, I conclude that Appeal A should succeed on ground (a) and the enforcement notice should be quashed. I shall discharge the condition which is subject to the notice and substitute another condition for it. I shall also grant planning permission on the application deemed to have been made for the operations previously permitted without complying with the condition enforced against but subject to a new condition as described above.
24. I also conclude that Appeal B should succeed. I will grant a new planning permission without the disputed condition but substituting another occupancy condition and restating another parking and turning area condition.

Formal Decisions

Appeal A

25. Appeal A is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the Act, condition 10 attached to the planning permission dated 4 November 1992, ref E/91/0367/O is discharged and the following new condition is substituted. Planning permission is granted on the application deemed to have been made under section 177(5) of the Act for 'Proposed 1 1/2 Storey Dwelling & Garage for Stable Owner' without complying with the said condition but subject to the other conditions attached to that permission and the following new condition:
- 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, horticulture, forestry, stud and/or other equine activities, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Appeal B

26. Appeal B is allowed and planning permission is granted for 'Proposed 1 1/2 Storey Dwelling & Garage for Stable Owner' at Old Tiger Stables House, 22A Northfield Road, Soham, Cambridgeshire CB7 5UF in accordance with the application Ref 24/00300/VAR, without compliance with condition numbers 1 to 5 and 7 to 11 previously imposed on planning permission Ref E/91/0367/O dated 4 November 1992 subject to the following conditions:

- 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, horticulture, forestry, stud and/or other equine activities, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 2) The existing parking and turning areas associated with the dwelling hereby permitted shall be maintained and retained for such purposes.

L Douglas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rowan Clapp	Cornerstone Barristers
Keith Hutchinson	Hutchinson Planning
Lorraine Webster	The appellant
Amy Richardson	Ashtons Legal

FOR THE LOCAL PLANNING AUTHORITY:

Rachael Forbes	East Cambridgeshire District Council (ECDC)
Dan Smith	ECDC
David Morren	ECDC
Rachel McKenzie	ECDC
Juleen Roman	ECDC
Angela Tyrrell	ECDC

INTERESTED PARTIES:

Adam Young	Neighbour
Raymond Smith	on behalf of Simon Smith, neighbour

DOCUMENTS SUBMITTED AT THE HEARING

Undated letter from Michael Crisp, provided by the appellant
Letter dated 10 January 2025 from Colin Murfitt, provided by the appellant
Letter dated 9 January 2025 with attachments from Keystone Law acting on behalf of Mr and Mrs Young and Mrs Slater, provided by Adam Young
Complete copy of planning obligation dated 4 November 1992 relating to the site