

26/14/0017

MRS J WRIGHT

REMOVAL OF CONDITION No 1 OF APPLICATION 26/08/0009 TO ENABLE DWELLING TO BE SOLD AS SEPARATE DWELLING AT UPCOTT FARM COTTAGE, NYNEHEAD

Location: UPCOTT FARM COTTAGE, LUCKHAM BRIDGE ROAD,
NYNEHEAD, WELLINGTON, TA21 0BU

Grid Reference: 314496.123254 Removal or Variation of Condition(s)

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) Location Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The dwelling known as The Little Cottage, identified as such on the approved location plan, shall only be occupied by Mrs Louise Blanch, Mr Robert Blanch and their resident dependants. In the event that it is not occupied as such, the following restrictions shall apply:

The Little Cottage shall be occupied for holiday purposes only.

The Little Cottage 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 The Little Cottage and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable time to the Local Planning Authority.

Reason: To prevent permanent occupation that would be contrary to countryside policies as set out in with paragraph 55 of the National Planning Policy Framework.

4. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order with or without modification), no extensions, alterations or additions shall be carried out to Upcott Farm Cottage or The Little Cottage and no fences, gates, walls or other means of enclosure shall be constructed or erected at the site without the further grant of planning permission.

Reason: In order to safeguard the amenities of neighbouring residents and the character and appearance of the existing buildings and the local area.

Notes to Applicant

PROPOSAL

This application seeks to remove a condition imposed on a previous planning permission. The property – known as Upcott Farm Cottage, is a permanent residential dwelling for Mr & Mrs Blanch and their resident dependents. Occupation is personally limited to them by virtue of a condition, imposed by an Inspector at appeal. This application seeks to remove that condition to create a permanent residential dwelling.

An adjoining property, known as The Little Cottage, currently has no occupancy conditions, and the applicant indicates that the restrictions currently applying to Upcott Farm Cottage could be exchanged with The Little Cottage.

SITE DESCRIPTION AND HISTORY

The site comprises a detached converted barn, now known as Upcott Farm Cottage. It shares an access with a small cottage, known as The Little Cottage, which has historically been let for holiday accommodation. There are adjoining, modern, agricultural buildings to the northwest and a further dwelling – Upcott – to the southwest.

The planning history for the site is set out below. In this history, Barn A is a barn at the adjoining ‘Upcott’ site, Barn B is now The Little Cottage and Barn C is Upcott Farm Cottage.

26/86/0004 – Conversion of barn (Barn C) to dwelling. Planning permission refused dated 11th June 1986 and appeal dismissed on 13th July 1987.

26/89/0009 – Retention of 2m high fence. Planning permission Refused, dated 24th October 1988.

26/90/0011 – Conversion of redundant barn (Barn A) to dwelling. Conditional permission granted dated 24th April 1991.

26/90/0010 – Conversion of redundant barn (Barn B) for holiday accommodation. Conditional planning permission granted dated 24th April 1991. Despite the application description, no holiday occupancy condition was imposed. The dwelling can therefore legally be occupied without restriction.

26/91/0005 – Conversion of redundant barn to holiday accommodation (Barn C). Conditional planning permission granted dated 10th October 1991.

26/96/0002 – Conversion of redundant barn (Barn A) to dwelling. This ‘renewal’ of permission was granted conditional planning permission dated 21st June 1996.

26/96/0004 – Conversion of barn (Barn C) to dwelling. Refusal dated 8th January 1997.

26/01/0004 – Conversion of redundant barn (Barn A) to dwelling. This ‘renewal’ of permission was granted conditional permission dated 24th October 2001.

On 28th February 2008, an Enforcement Notice was served alleging the increase in height of the roof of Barn C and the use of the barn as a permanent residential dwelling. A subsequent appeal was dismissed and the notice upheld.

26/08/0009 – Change of use of holiday let to dwelling and alteration to roof (Barn C). Permission was refused, but subsequently allowed at appeal, subject to a condition that “the building shall only be occupied by Mrs Louise Blanch, Mr Robert Blanch and their resident dependants. This effectively granted permission for the previously unauthorised building works.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

NYNEHEAD PARISH COUNCIL – Objects for the following reason: The reasons have not changed since December 2013, that the original planning application should be upheld and enforced with the decision of the original appeal being that the applicant’s family use only.

SCC - TRANSPORT DEVELOPMENT GROUP - “Refer to standing advice”. Standing advice refers to access visibility and parking requirements.

Representations

6 letters of OBJECTION have been received relating to this application, raising the following comments:

- TDBC made an error in granting permission for occupation of the smaller barn without restriction.
- It has always been the applicant's intention to convert the building for use as a permanent dwelling. She is gradually chipping away to achieve her original goals.
- Unauthorised development took place to increase the headroom and allow the barn to be converted in the first place. It is regrettable that the inspector did not support TDBC in taking enforcement action.
- It is ridiculous to grant planning permission for the conversion of this building to a separate dwelling. The previous events may be water under the bridge, but we would not be here if enforcement action against the unauthorised works had been taken promptly in the first place.
- It would be a travesty to allow these buildings to 'swap' uses, given the, compounding the original planning error and allowing the owner to obtain a substantial increase in the value of her property by default.
- The previous inspector took account of previous personal circumstances and granted the appeal for personal occupation. Nothing has changed in planning law to lead to a different conclusion.
- The current application has no relevance whatsoever to planning matters, but is purely for personal financial gain and so should be of no consequence to TDBC.
- The removal of conditions imposed by the inspector should mean that the original refusal should be upheld and the Enforcement Notice reinstated. Restrictions should not be exchanged with other properties.
- If the restriction is exchanged, then this would in effect grant planning permission for a permanent two-storey dwelling. If this is to happen, then the property should be reinstated to its original size – i.e. reduce the height of the roof.
- If the restrictions were to be exchanged, the smaller property would not offer adequate space for the Blanch family to reside.
- If the Blanch family now intend to reside at the Little Cottage, this calls into question their suggestion that there was no suitable accommodation available for them when permission was originally granted for their occupation of the larger property. Permission could be granted for a trial period of 12 months, with unannounced callers checking that the Blanchs were actually living at the property.

PLANNING POLICIES

EN12 - TDBCCLP - Landscape Character Areas,
 EN22 - TDBCCLP Dev Affecting Sites of County Archaeological Importance,

LOCAL FINANCE CONSIDERATIONS

None.

DETERMINING ISSUES AND CONSIDERATIONS

This application proposes the removal of the personal occupancy condition placed

on Upcott Farm Cottage by the appeal inspector under application 26/08/0009. As part of this proposal, the applicant indicates that the restriction should instead be placed upon The Little Cottage, which currently affords unrestricted occupation in planning terms. It is considered that, in the event that planning permission is granted, an occupancy condition could be imposed on The Little Cottage that allowed its occupation by the Blanch Family or for holiday accommodation (the previous permitted use of Upcott Farm Cottage). This would avoid any future uncertainty in the event that the Blanch Family did not wish to occupy it. It is recommended that the application is considered and determined on this basis.

It is not considered that the exchange in conditions would have any significant impact upon the visual amenities of the area nor the highway network. The Little Cottage has a close relationship with Upcott, but given the current lack of occupancy condition on this property and the fact that it has historically been used for holiday accommodation, it is not considered that there would be any significant impact upon Upcott, nor any other neighbouring properties.

The main issue in the consideration of this application is, therefore, the principle of the development and planning policy.

The site is in the open countryside, outside the settlement of Nynehead and subject to Policy DM2 of the Taunton Deane Core Strategy. Nynehead itself provides limited services and residents are dependent upon private transport to service most of their day to day needs. The application site is no different and it is considered that the creation of new independent, unrestricted units of accommodation is contrary to policy and would lead to unsustainable development. There is, therefore, a presumption against the removal of the occupancy condition.

Against this, however, is the proposal to place the occupancy conditions currently (and previously) on Upcott Farm Cottage onto the adjoining, property – The Little Cottage. In effect, then, there would be no net increase in unrestricted dwellings on the site. Upcott Farm Cottage is considerably larger (3 bedroom) dwelling than The Little Cottage (1 bedroom). However, it is not considered that the harm that would arise in terms of the need to travel would be substantially greater to the point that would warrant refusal of the application. In terms of the overall development of the area, then, it is considered that the effect would be broadly neutral.

Also weighing in the balance is the fact that Upcott Farm Cottage has been lawfully used as a private, permanent, family dwelling for the last 4 ½ years, since the appeal was allowed. True, this occupation is subject to an occupancy condition and as a consequence of what the inspector considered were the Blanch family's very special family circumstances. However it has been a dwelling and has attracted travel patterns and other impacts associated with such a use. Meanwhile, The Little Cottage has been occupied for holiday accommodation so, to a certain extent, the proposal would maintain the status quo – albeit with unrestricted occupation of Upcott Farm Cottage in place of the personal occupancy condition.

The foregoing considerations indicate that there is very limited, if any, harm that would arise from the proposed development. The representations are largely concerned with alleged mistakes in previous council decisions and the applicant's continued breaches of planning control to manipulate the buildings at the site in such a way that she is now trying to achieve what she has always sought, yet been

refused. The neighbouring resident's frustration is understandable here, but, as pointed out in one of the representations, much of this is now 'water under the bridge' and the application must be judged on its own merits at the present time.

It is, therefore, considered that the proposal is acceptable and it is recommended that planning permission is granted.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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