

APPEALS RECEIVED : FOR COMMITTEE AGENDA : 30 JUNE 2010

Appeal Proposal	Start Date	Application/Enforcement Number
CONVERSION OF BARN TO SINGLE STOREY DWELLING AT MAUNDOWN COTTAGE, JEWS LANE, MAUNDOWN, WIVELISCOMBE	02 JUNE 2010	49/09/0046
ERECTION OF 10 X 2 STOREY DWELLINGS (TO INCLUDE 3 AFFORDABLE HOUSING) AND ASSOCIATED WORKS AT THE OLD COAL YARD, WOODHILL, STOKE ST GREGORY	07 JUNE 2010	36/09/0017

APPEAL DECISION FOR COMMITTEE AGENDA – 30 JUNE 2010

APPEAL	PROPOSAL	REASON(S) FOR INITIAL DECISION	APPLICATION NUMBER	DECISION
APP/D3315/A/10/2120627/ NWF	Conversion of traditional agricultural buildings into two residential dwellings at Arundells Farm, Lower Henlade	<p>The proposed dwelling is in a rural location remote from services and would be reliant upon the private car fostering the growth in the need to travel contrary to advice in Policy TRAN1 of RPG10, Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies S1(B) and S7 of the Taunton Deane Local Plan.</p> <p>The proposal is for a residential dwelling in the countryside where development is resisted under Policy H7 unless it is unlikely to attract a suitable business use. In the opinion of the Local Planning Authority the proximity of the unit to good highway links to Taunton and beyond, including the M5 junction, and the open layout of the buildings establishes a potential for business use that should be adequately explored by marketing for possible uses at a reasonable cost and over a suitable period of time (not less than 12 months). Without the marketing evidence there is no justification for divergence from Policies EC6 and EC8 which support farm diversification and the rural economy and the proposal is considered contrary to Taunton Deane Local Plan Policies S7 and H7</p>	31/09/0011	The Inspector found that the proposed development would be an unsustainable location in transport terms and would conflict with the local development plan regarding the conversion of buildings for residential use in the countryside. On balance, in the absence of conclusive marketing evidence to show that commercial activity would not be a viable proposition, and having regard to all other matters raised, he concluded that the appeal should be DISMISSED.
APP/D3315/A/10/2120429/ NWF	Change of use from holiday let to dwelling and alteration to roof at Upcott Farm	The building lies in open countryside where development is strictly controlled. It was originally a traditional agricultural barn and it is	26/08/0009	The Inspector concluded on the main issue that, although the development would not accord with

	Cottage, Nynehead	<p>the policy of the Local Planning Authority only to allow the conversion of such buildings to residential use where they are in keeping with traditional surroundings, where no significant alteration would be required, and where the building is unlikely to attract a suitable business re-use.</p> <p>The site is located in a relatively remote location away from services and facilities, where there is limited public transport. The occupiers of the proposed dwelling would therefore be highly dependent upon the private car for normal activities, including shopping, employment, health, leisure and education.</p>	<p>established planning policies that are aimed at securing sustainable rural development, the personal/family circumstances of the Blanch family are an important material consideration that indicate the appeal should not be determined in accordance with the development plan. He ALLOWED the appeal with a condition restricting the occupancy of the building to the Blanch family, emphasising that this should not be interpreted as condoning previous unauthorised works and is not an 'abandonment of proper planning process and law'. Provision already exists within the site for vehicular parking.</p>
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TDLP = Taunton Deane Local Plan **SENP** = Somerset & Exmoor National Park



Appeal Decision

Site visit made on 17 May 2010

by **John Wilde** C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 June 2010

Appeal Ref: APP/D3315/A/10/2120627

Arundell's Farm, Lower Henlade, Taunton, Somerset TA3 5LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Brown against the decision of Taunton Deane Borough Council.
- The application Ref 31/09/0011, dated 15 June 2009, was refused by notice dated 20 July 2009.
- The development proposed is the conversion of traditional agricultural buildings into two residential dwellings.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are whether the proposed development would be sustainable in transport terms and whether or not it would comply with local planning policy relating to development in the countryside.

Reasons

Sustainability

3. Arundell's Farm lies within the open countryside about 1.15Km from the village of Stoke St Mary, which contains limited services including a public house, church and church hall. The road to Stoke St Mary is narrow with high hedge banks and no footways or verges. The roads that link the farm to Henlade, which is about 0.7km away and contains a post office and store, are also relatively narrow and contain a sharp tight bend. Neither Stoke St Mary nor Henlade have a school, and the post office and store in Henlade is on the far side of the busy A358. The bus stops in Henlade are also on the A358 which is on the far side of the village from the appeal site.
4. Encouraging sustainable development is one of the core principles of government planning policy. Planning Policy Statement 1: *Delivering Sustainable Development*, makes clear in paragraph 13(ii) that development plans should contribute to global sustainability by addressing the causes and potential impacts of climate change. One example of this is given as encouraging patterns of development which reduce the need to travel by private car. This approach is supported by Planning Policy Guidance Note 13: *Transport*, which states in paragraph 75 that *walking is the most important*

mode of travel at local level and offers the greatest potential to replace short car trips.

5. Policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review (JSPR) reflects this approach and states that development should develop a pattern of land use and transport which minimises the length of journeys and the need to travel and maximises the potential for the use of public transport, cycling and walking. The nearest public transport to the site is in Henlade, and given the distances and types of roads involved I am not persuaded that cycling or walking from the site would be a regular occurrence. It follows that the proposed development conflicts with policy STR1.
6. Policy S1 of the Taunton Deane Local Plan (TDLP) is similar to policy STR1 in aiming to reduce car usage and consequently the proposed development also conflicts with this policy.

Countryside development

7. Policy H7 of the Taunton Deane Local Plan lists seven criteria to be met for the conversion of buildings to residential use. Of these the Council consider that the proposed conversion fails to comply with only criterion A(3). This criterion makes clear that to be suitable for residential conversion buildings should, amongst other things, be unlikely to attract a suitable business re-use.
8. Such an approach is in line with the hierarchy given in policy EC12 of Planning Policy Statement 4: *Planning for Sustainable Economic Growth*. This states that the *re-use of buildings in the countryside for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations and for some types of building*.
9. The justification for policy H7 indicates in paragraph 3.40 that the applicant will need to show that there is little likelihood of an employment generating use, and that this is likely to require information on marketing over approximately twelve months.
10. I have been supplied with a Commercial Viability Report compiled by Greenslade Taylor Hunt dated 29 May 2009. This report concludes that the barns would be unsuitable for B1 use (office, research or selected industrial processes) and B2 use (industrial process other than B1) due to their height, construction and internal layout. This conclusion is supported by the contention that likely occupiers would prefer purpose built profile steel clad buildings situated on industrial parks, and that Greenslade Taylor Hunt find it difficult to attract occupiers to barn type premises. I have been supplied with no statistical evidence however, to support these assertions. The report also goes on to indicate that due to the barns' attachment to an existing dwelling, any office, workshop, or light industrial use would be unsuitable.
11. The Council accept that B2 use would be inappropriate in this particular case but take the view that small scale B1 use or B8 use (storage or distribution) would be feasible. At the time of my visit one of the barns was in use as a home for housing rabbits. While I note that this use is not a commercial activity it does indicate that uses can be found for the barns, even in their present form.

12. Notwithstanding the comments in the viability report and the informal comments of the highways officer regarding commercial use, I consider that a small scale office use would not unduly conflict with the residential nature of the site and could be successfully accommodated within the existing form of the barns. I have been provided with no evidence of marketing of either of these barns so as to persuade me that such a use could not be found on a small commercial scale.
13. In light of this lack of evidence, I conclude that the proposed development conflicts with policy H7 of the TDLP.
14. My attention has been drawn to several other conversions of agricultural buildings that have been allowed on appeal. From the limited information before me however, these cases differ from that before me in terms of their distances from services, site history and issues involved. None in my view therefore form a compelling precedent.

Overall Conclusion

15. I have found that the proposed development would be in an unsustainable location in transport terms and would conflict with the local development plan regarding the conversion of buildings for residential use in the countryside. I accept that the actual level of trips generated by the proposed development would be relatively low, and may be only slightly higher than those generated by a small scale commercial development. I am also aware that the barns have previously had planning permission for conversion into dwellings. That permission was however granted prior to government guidance stressing sustainability issues. I have also taken into account the sustainability advantage in the re-use of the barn and the construction costs involved in converting the barns to commercial use.
16. On balance however, in the absence of conclusive marketing evidence to show that commercial activity would not be a viable proposition, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

Inspector



Appeal Decision

Hearing held on 27 May 2010

Site visit made on 27 May 2010

by **Neil Pope BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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**Decision date:
17 June 2010**

Appeal Ref: APP/D3315/A/10/2120429

Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA21 0BU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Jill Jeffreys against the decision of Taunton Deane Borough Council.
- The application Ref. 26/08/0009, dated 2/12/08, was refused by notice dated 8/7/09.
- The development proposed is described as *allow change of use from holiday to dwelling, adjusting roof as discussed with planning officer as shown on plans to allow family of 3 children and 2 disabled parents to remain housed as there is a shortage of suitable accommodation in the area, to adjust the roof to make it visually more acceptable while causing as little stress to the barn structure as possible.*

Preliminary Matters

1. A more concise description of the development is the change of use from holiday accommodation to a dwelling and alteration to the roof.
2. The development has already been undertaken. The building is occupied by the appellant's daughter and son-in-law (Mrs Louise Blanch and Mr Robert Blanch) and their three young children.
3. Applications for costs have been made by the Council against the appellant and by the appellant against the Council. These applications are the subject of separate Decisions.

Decision

4. I allow the appeal, insofar as this enables the current occupants to remain living within the building, and grant planning permission for the change of use from holiday accommodation to a dwelling and alteration to the roof at Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA21 0BU. The permission is granted in accordance with the terms of the application Ref. 26/08/0009, dated 2/12/08, subject to the following conditions:
 - 1) the building shall only be occupied by Mrs Louise Blanch, Mr Robert Blanch and their resident dependants;
 - 2) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additions or extensions (including the insertion of dormer windows) shall be added to the building and no further buildings, structures or enclosures shall be constructed or placed on the site other than that expressly authorised by this permission.

Main issue

5. The main issue is whether the development accords with established planning policies that are aimed at securing sustainable rural development, having particular regard to the extent of works involved in the conversion of this former barn, the likelihood of a suitable business re-use taking place and the degree to which residents are likely to be dependent upon the use of the private car for accessing services and facilities.

Background Matters

6. The site has a lengthy planning history. This includes an appeal that was dismissed in 1986 for the conversion of the building into a dwelling. Permission was granted in 1991 to convert the barn into a holiday unit (Ref. 26/91/005). That development was commenced. In 1997 permission was again refused to use the building as permanent residential accommodation (Ref. 26/96/0004). In August 2008, enforcement appeals in respect of an increase in height of the building and its use as a permanent dwelling were dismissed (Refs. APP/D3315/C/08/2068302 & 2068321). The building is adapted for use by the disabled. I have taken these matters into account in determining the appeal.

Reasons

7. The appeal site lies within the countryside and is beyond the settlement limits for Higher Nynegarth as defined in the adopted Local Plan¹. Within such areas, established planning policies² provide strict control over development. This is reflected in the planning history. Under LP policy H7, the conversion of rural buildings to residential use is not permitted where, amongst other things, the building is incapable of conversion without major rebuilding or significant extension and alteration, and is unlikely to attract a suitable business re-use.
8. The works undertaken to the appeal building since 2007 include a complete new roof structure and a 'ring-beam' tying this to the walls. This has increased the internal wall height by about 230mm and the eaves height by 100mm. Some neighbours have submitted photographs of the building and have argued that the ridge height of has increased by about 1m. However, the Council and the appellant agree that the ridge height is about 300mm-400mm higher. This is consistent with what I saw during my visit. Some infilling has also been undertaken to the external walls, all external elevations have been re-pointed and some stone work on the gable ends has been re-bedded. The building has been significantly altered.
9. The appellant's builder has informed me that it is common practice to replace the whole of a roof structure in barn conversions and has argued that "*no form of major re-building works*" was undertaken. In this regard, I note the findings of some Inspector's (and one Reporter in Scotland) who have determined other appeals involving the re-use of rural buildings, as well as other permissions granted by the Council for conversions elsewhere in the Borough. Some of these permissions include new roof structures and the rebuilding of some walls.
10. Each case must however be determined on its own merits. In the absence of photographic records and structural surveys, and given the variations in the

¹ Taunton Deane Local Plan (LP) 2004

² Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPS7) , policy STR6 of the Exmoor National Park Joint Structure Plan Review (SP) and LP policy S7

respective local policies, it is very difficult to make meaningful comparisons with appeal decisions elsewhere in the country. The Council's representative also informed me that some of the schemes permitted within the Borough were amendments to permissions which pre-dated the LP and/or current national planning policies, or involved the retention of barns that were important to the setting of a listed building. No two cases are exactly the same and these other decisions do not set a precedent that I am bound to follow.

11. I agree with the appellant that interpretation of LP policy H7 could be clearer if the permissible scale or extent of 'major rebuilding' had been specified as part of the LP or in supplementary guidance. Nevertheless, it is very clear from the recent enforcement appeals that the previous Inspector found the works to the roof of Upcott Farm Cottage to constitute major rebuilding. There has not been any material change in circumstances since that decision to lead me to find differently on this matter.
12. The appellant has argued that it is unviable to let the appeal building for use as holiday accommodation. In support, she has supplied twelve months letting records for the adjacent one bedroom holiday cottage. This reveals a loss of over £6,000 during this period. The appellant contends that the appeal building would be more difficult to let as there are numerous other properties of a similar size within the area and it lacks the facilities, such as a swimming pool, that other holiday units offer.
13. The appeal premises however, are a different size to the adjacent one bedroom unit and have never been marketed as holiday accommodation, either for letting (including disabled holiday accommodation) or for sale. Paragraph 3.40 of the supporting text to LP policy H7 requires information on marketing over approximately 12 months. Furthermore, the Inspector who determined the appeal in 2008, noted the advice of the Council's Tourism Officer and found that tourist accommodation remained a viable business re-use of the property.
14. I recognise that the appellant would incur costs in marking the property as holiday accommodation. Nevertheless, this would have been apparent from the outset. Other holiday units with swimming pools may also be more attractive to some holidaymakers. However, it is reasonable to assume that such accommodation would be more expensive and may be beyond the budget of many visitors. There is nothing of substance to show that the absence of a swimming pool would have a significant effect on attracting visitors to self-catering accommodation in this part of the county.
15. The appeal site lies in an attractive rural area between the Blackdown Hills, the Quantock Hills and Exmoor National Park. There are also other popular visitor attractions in the area. The evidence before me does not demonstrate that the appeal premises are unsuitable or unviable for holiday use.
16. I note the arguments regarding the travel movements/trip generation of residents compared to those staying on holiday. There is agreement between the main parties that a permanent dwelling would be likely to generate between 6-8 movements by car/day. Whilst some holidaymakers would undertake a greater number of car movements/trips, I concur with the Council that the vast majority would undertake significantly less.
17. In my experience, which includes self-catering family holidays in the countryside, it is unusual for holidaymakers to make more than 2 or 3

movements/trips by car/day. This is similar to the experiences of the Parish Council's representative. I also note that in another appeal at Thurlbear the Inspector found that a change of use from holiday letting to a permanent dwelling would generate additional trips (Ref. APP/D3315/A/08/2078992). Those staying on holiday are unlikely to require access to employment and healthcare facilities, which are remote from Upcott Farm Cottage. Visitors such as friends and relatives, are also unlikely to be associated with those staying on holiday. Deliveries are also likely to be very rare.

18. There is a weekly bus service to Nynehead and some ring-and-ride community transport is also available. The local community hall is licensed and is the base for a playgroup and some other community clubs. However, there is no shop and the local school is due to close in July. There is a very limited range of services available to those living in and around Nynehead.
19. The County Council's Transport officer advised that residents of Upcott Farm Cottage are likely to be dependent on private vehicles for most of their daily needs. This would foster the growth in the need to travel and be at odds with established planning policies. The Inspector who determined the appeal in 2008 also found that occupiers would be highly dependent upon the private car. The evidence submitted in support of the appeal on this matter is rather unconvincing and there is much greater weight in the Council's argument.
20. Given the above, I find that the development would not accord with established planning policies that are aimed at securing sustainable rural development. I am required to determine the appeal in accordance with the development plan³ unless material considerations indicate otherwise. The Council accepts that the appellant's personal and family circumstances are a material consideration to be taken into account in determining this appeal. However, it has argued that this should be given no weight as the appellant had attempted to manipulate the planning system and "*knowingly brought the situation upon herself.*"
21. The appellant has lung disease, degenerative spinal disease, diabetes and debilitating post cancer surgery issues. She was divorced during the 1990s and encountered financial difficulties. Since then she has re-married and lives nearby at Weekmoor Farm. I have sympathy for the appellant's very serious medical conditions and appreciate that she has experienced considerable financial and emotional problems in the past. However, these personal circumstances carry little weight and do not justify granting permission.
22. The appellant's daughter has cerebral palsy. Her son-in-law has paraplegia, due to a spinal cord injury in 1995, and is confined to a wheelchair. They vacated an adapted bungalow in Milverton (owned by the appellant) to occupy the appeal premises with their children. One of the appellant's carers confirmed that whilst this bungalow was suitable for disabled family use it had a very steep gradient and difficult access. In effect, Mr Blanch was unable to leave the confines of the bungalow and both he and his wife felt that they were not close enough to their family and friends who provide their daily support and help network. This has not been disputed by the Council.
23. If this appeal were to fail Mr and Mrs Blanch and their children would effectively become homeless. The Council has only a very limited number of disabled

³ Includes the SP and LP

adapted properties, including two 4 bedroom bungalows and twenty-one 3 bedroom bungalows. Its Housing Services Officer (HSO) has informed the appellant that this accommodation would probably not suit the needs of the Blanch family. The HSO has also advised that there are a limited number of properties for the disabled in the Housing Association stock and these are in Taunton. The HSO has commented that such properties do not come up for re-let very often and there is no budget for building new or adapting existing stock and *"it would be a long time for a family to be housed if at all."*

24. If the Blanch family were to become homeless the Council informed me that its Housing Services department would identify them as being in extreme housing need and given *"extremely high priority"*. However, until such time as suitable family accommodation could be found I understand that the Council would look to place Mr and Mrs Blanch in a hotel and their children would be taken into care. There is serious risk of Mr and Mrs Blanch being separated from their children for a very considerable period of time.
25. Mrs Blanch's carer informed me that if this situation were to arise it would have a *"catastrophic effect"* on Mrs Blanch's physical and mental condition. The children would also miss their parents. Withholding permission could therefore have very serious implications for the health and social well-being of the Blanch family. In the very unusual circumstances of this case, there are strong compassionate grounds to be weighed in the overall planning balance.
26. The circumstances of this case are special with both parents being disabled and little, if any, prospect of re-housing the family in suitable accommodation in the near future. The implications for Mr and Mrs Blanch and their children is an important material consideration in determining this appeal to which I attach considerable weight. When weighed alongside my findings above regarding the development plan and other planning policies, matters are finely balanced. Whilst the previous Inspector took into account the personal circumstances of the appellant's family I was informed that considerably more information and details have been submitted in the appeal before me. I have also been able to explore this issue in much greater depth with the main parties.
27. These other material considerations indicate that permission should be forthcoming. However, circumstances could change in the future. To avoid undermining the provisions of the development plan and to maintain public confidence in the planning system, it would necessary to restrict the occupancy to Mr and Mrs Blanch and their dependents. I note the appellant's arguments that this would affect the ability to dispose of the property at some stage in the future. However, the alternative would be to withhold permission.
28. I conclude on the main issue that although the development would not accord with established planning policies that are aimed at securing sustainable rural development, the personal/family circumstances of the Blanch family are an important material consideration that indicate the appeal should not be determined in accordance with the development plan.

Other Matters

29. I note the concerns of some residents that over a lengthy period of time the appellant has undertaken development in breach of the planning permission. Restricting the occupancy in the way I have described above should not be interpreted as condoning previous unauthorised works and is not an

'abandonment of proper planning process and law.' Whatever the previous roof materials the Inspector who determined the appeal in 2008 found that the alterations to the roof did not detract from the character and appearance of the barn or the surroundings. Whilst part of the site can also be seen from a footpath the new roof does not harm the quality of the public realm.

30. I note the provisions of national planning policies for housing⁴ as well as emerging local policies⁵. The development adds to the range of housing and meets the needs of a family with disabled parents. In so doing, it adds to the mix of different households in this part of the Borough. However, as I have found above, it would increase the need to travel and is not a suitable location for new housing. PPS3 does not support the appellant's case. The emerging local policies have not reached an advanced stage and only carry very limited weight. The Council has also pointed out that these local policies identify Nynehead as an unsuitable location for new development due to the lack of services, facilities and poor transport links.
31. On behalf of the appellant attention was drawn to Articles 6 and 8 of the Human Rights Act 1998. The appellant (and those acting on her behalf) took a full and active part in the Hearing. There was adequate opportunity/reasonable chance for the appellant to put forward her case and she was not disadvantaged in relation to the Council or any other party. Throughout the Hearing I asked questions of both main parties without bias. The appellant does not reside within Upcott Farm Cottage and there would be no interference with her home. There would also be no interference with her family life. My finding on the main issue above would not violate the appellant's human rights.
32. I have taken into account other decisions taken elsewhere, including those within the Borough that have been drawn to my attention. Any inconsistencies or unjustness in the Council's decisions would be a separate matter for others.

Planning Conditions

33. Given my findings above in respect of the main issue, a condition restricting the occupancy of the building to the Blanch family would accord with the advice in paragraphs 92 and 93 of the Annex to Circular 11/95⁶.
34. Provision already exists within the site for vehicular parking. It would be unnecessary therefore to attach conditions requiring the submission of parking details and the provision of parking spaces. To safeguard the character and appearance of the area and the integrity of the building, it would be necessary to bring certain permitted development rights under the Council's control.
35. I conclude that the appeal should succeed in the terms set out above.

Neil Pope

Inspector

⁴ Planning Policy Statement 3 'Housing' (PPS3)

⁵ Taunton Deane Borough Council Core Strategy and Small Sites Consultation

⁶ The Use of Conditions in Planning Permissions

APPEARANCES

FOR THE APPELLANT:

Mrs J Jeffreys	Appellant
Mr K Woosnam	Appellant's agent/friend
Ms H Packman BSc (Hons), OT	Carer for Louise Blanch
Mr R Blanch	Appellant's son-in-law

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Bale BA (Hons), MA, MRTPI	Area Planning Co-ordinator
Mr J Hardy	Senior Enforcement Officer

INTERESTED PERSONS:

Mr G Sparks	Nynehead Parish Council
Mr D J Price RIBA	Local resident
Mrs A Brook	Local resident
Mr J D Brook	Local resident
Mr Darbyshire	Local resident