

APPEAL DECISIONS – 25 FEBRUARY 2021

Site: Land to the west of Station Road and south of Home Orchard, Hatch Beauchamp

Proposal: Erection of 12 No. dwellings with associated works at field located to the west of Station Road and south of Home Orchard, Hatch Beauchamp

Application number: 19/19/0009

Reason for refusal: Appeal – Dismissed, Costs - Dismissed

Original Decision: Committee – Refusal



Appeal Decision

Hearing Held on 16 & 17 December 2020 Site visit made on 23 December 2020 **by H**

Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Appeal Ref: APP/W3330/W/20/3246143 Field located to the west of Station Road and to the south of Home Orchard, Hatch Beauchamp

- 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 West of England Developments (Taunton) No2 Ltd against the decision of Somerset West and Taunton Council.
 - The application Ref 19/19/0009, dated 22 August 2019, was refused by notice dated 10 December 2019.
 - The development proposed is erection of 12no. dwellings with associated access, landscaping and drainage works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by West of England Developments (Taunton) No2 Ltd against Somerset West and Taunton Council. This application will be the subject of a separate Decision.

Background and Procedural Matters

3. The relevant elements of the development plan for this appeal comprise policies from the Taunton Deane Adopted Core Strategy 2011 - 2028, 2012 (CS) and from the Taunton Deane Site Allocations and Development Management Plan, 2016 (SADMP). Material considerations include the Taunton Deane Affordable Housing Supplementary Planning Document, 2014 (SPD); the National Planning Policy Framework, 2019 (the Framework); and the Government's Planning Practice Guidance (PPG).
4. Two Unilateral Undertakings have been provided by the appellant that provide for various planning obligations in the event that planning permission is granted: UU1, dated 9 June 2006, relates to the provision of affordable homes, as well as financial contributions towards off-site play equipment; UU2, dated 17 December 2020, concerns nutrient neutrality obligations for implementation and management of a package treatment plant and wetland at the appeal site. Both UUs are material considerations to which I return later in the decision. Revised plans (17.98.02D and 17.98.03D) have been submitted in response to the matter of phosphates and nutrient neutrality that has arisen during the course of the appeal. I am satisfied that the revisions do not fundamentally alter the development and no parties' interests would be prejudiced by my taking them into account.

Main Issues

5. The main issues are:
 - Whether the proposed development satisfies the requirement for a rural exception site, having regard to the development plan and national planning policies; and,
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Rural Exception Site

6. SADMP Policy SB1 seeks to maintain the quality of the rural environment and ensure a sustainable approach to development. Prioritising the most accessible and sustainable locations, CS Policy SP 1 follows a sequential approach to development. Hatch Beauchamp is amongst a number of villages with retained settlement boundaries in lowest tier of the settlement hierarchy. Located adjacent to but beyond the settlement boundaries of Hatch Beauchamp, the greenfield appeal site is treated as being within open countryside.
7. CS Policy DM 2 lists eight types of development in the countryside that are supported outside of defined settlement limits. This includes (criterion 6) for affordable housing that is a) adjoining settlement limits, provided no suitable site is available in the rural centre; b) in other locations well related to existing facilities and to meet an identified local need that cannot be met in the nearest identified rural centre.
8. Paragraph 77 of the Framework supports opportunities to bring forward affordable housing rural exceptions sites (RES) to meet identified local needs. Paragraph 78 of the Framework promotes sustainable development in rural areas, encouraging

housing be located where it would enhance or maintain the vitality of rural communities. The Council's affordable housing SPD sets out that RES developments should, amongst other things, meet or help to meet a proven and specific local need for affordable housing in the Parish or adjoining rural Parishes, which would not otherwise be met.

9. The appellant undertook a Housing Needs Survey¹ (HNS), the method or findings of which have not been disputed by the Council and are considered to be up-to-date. I have taken note of interested parties' concerns over the accuracy of the HNS. However, taking into account the limited scope to Hatch Beauchamp Parish, the relatively low response rate, and that the Council conceded demand for affordable housing outstrips supply across the local authority area, I consider the HNS to be a conservative estimate of local need. I am therefore satisfied there is an identified local need for eight affordable homes, which the proposed development would help to meet.
10. Policy DM 2 6 a) provides support for affordable housing adjoining settlement limits providing no suitable site is available within the rural centre. The appellant has promoted the appeal scheme under CS Policy DM 2 criterion 6 b), which relates to sites other locations well related to existing facilities and to meet an identified local need that cannot be met in the nearest rural centre. My reading of CS Policy DM2 is that criterion 6 a) should apply to sites that adjoin settlement limits, as the appeal site would to the settlement limits of Hatch Beauchamp.
11. I do accept that the affordable housing in this case would be well related to the existing facilities in Hatch Beauchamp and, as above, would meet an identified local need. Even so, Policy DM 2 6 b) still priorities that need being met in the nearest identified rural centre, which would be North Curry. Although RES affordable housing may be in addition to specific site allocations, justification text for Policy DM 2 sets out that proposals will remain targeted to locations within rural centres. This corresponds with CS Policy SP 1 and SP 4, which indicate that growth in rural areas will be more limited while allowing for sites fulfilling affordable housing exceptions criteria outside development boundaries in the Major Rural or Minor Rural Centres.
12. The appellant's Affordable Housing Statement² (AHS) concedes that there may be the potential for new affordable housing to come forward in North Curry. The likelihood of any forthcoming affordable housing in North Curry meeting the needs identified for Hatch Beauchamp Parish appear to have been ruled out based on assumption. Paragraph 78 of the Framework provides support for development in one village supporting services in another, whilst the SPD refers to proven and specific local need for affordable housing in the Parish or adjoining rural Parishes. I note that AHS has assessed sites within or adjacent to the settlement boundary for Hatch Beauchamp, however, without a more comprehensive assessment of whether there are suitable sites in North Curry, it has not been convincingly demonstrated that the affordable demonstrable local housing need could not be met within the rural centre in accordance with DM 2.
13. In supporting opportunities to bring forward RES affordable housing, paragraph 77 of the Framework allows for consideration of whether allowing some market housing on these sites would help facilitate this. There is no specific definition or percentage limit given in either the Framework or SPD as to what a 'proportion' or a 'small

¹ Falcon Rural Housing, June 2019

² West of England Developments (Taunton) No. 2 Ltd Affordable Housing Statement, October 2019 paragraph 4.2.6

proportion' of open market housing should entail. The viability of specific sites and schemes is inevitably nuanced, as evidenced by examples of other RES schemes referred to by the appellant. I take the Framework and SPD guidance to imply that, irrespective of the percentage proportion, any open-market element should be the minimum necessary provision.

14. The proposed development would offer six affordable and six open-market dwellings; the open-market provision in this case represents 50% of the units and more than half of the developable part of the site. All of the open-market dwellings would be in the form of three-bedroomed detached bungalows. The proposed affordable units would comprise one two-storey, three-bedroomed semi-detached house; three two-storey two-bedroomed semi-detached houses; and a pair of two-bedroomed semi-detached bungalows.
15. The independent assessment of the appellant's viability report points out that the build costs rates for single-storey development are potentially higher. Whether or not there was an indicative preference for bungalow dwelling during public consultations, there is no convincing reason why developing the site with mainly single-storey housing that is usually more costly and requires extra amount of land has been advanced. A separate appraisal of the costs and revenue of a scheme not comprising bungalow dwellings has not been carried out, causing me to question whether a scheme designed with two-storey homes rather than bungalows could potentially decrease the level of open market housing required to bring forward the affordable homes. On this basis, it has not been demonstrably shown that the open market housing is the minimum necessary provision to enable the delivery of the affordable housing.
16. The appellant has cited examples of RES affordable housing development outside the settlement limits. I do not know the site-specific or detailed planning judgments that applied in those instances, although the PPG³ does indicate that LPAs can support opportunities to bring forward RES by working proactively with landowners and potential delivery partners such as parish councils. Nevertheless, Hatch Beauchamp is a village in the lowest tier of the settlement hierarchy, where local services and facilities are limited. I am not persuaded that meeting the affordable housing needs for Hatch Beauchamp Parish rather than in the rural centre of North Curry would reduce the need to travel, especially taking into account the extremely limited range of services and facilities to satisfy day-to-day needs that the village has to offer.
17. Drawing all of the above together, the proposal fails to satisfy the requirement for a RES outside of settlement limits in accordance with CS Policy DM 2. Furthermore, it has not been convincingly shown the market housing on the site would be the minimum necessary to help facilitate the affordable housing to meet local needs. I therefore conclude that the proposal would not find support under paragraph 77 of the Framework. As a consequence, the proposal would advance new housing in the open countryside that would not ensure a sustainable approach to development and be conflict with SADMP Policy SB1 and CS Policy SP 1 that seeks to restrict development outside of defined settlement limits and focus development on the most accessible and sustainable locations. This, in turn, causes conflict with CS Policy CP6, insofar as it seeks to ensure development reduces the need to travel.

³ PPG Paragraph: 009 Reference ID: 67-009-20190722

Character and appearance

18. SADMP Policy SB1 seeks to ensure that, in all cases, development outside of boundaries of settlements is designed and sited to minimise landscape and other impacts. CS Policy SP 1 seeks to ensure proposals promote the principles of sustainable development by, amongst other things, minimising and/or mitigating pressures on the natural environment. All forms of development listed under CS Policy DM 2 are still subject to, amongst other things, being of a scale, design and layout compatible with the rural character of the area. Policy CP 8 states that on unallocated greenfield land outside settlement boundaries will be permitted where it will be appropriate in terms of scale, siting and design; and protect, conserve or enhance landscape and townscape character. Policy DM 1 requires all proposals for development not to unacceptably harm the appearance and character of any landscape, settlement, or street scene. SADMP Policy D7 seeks to ensure new housing creates a high standard of design quality and sense of place.
19. The Council's affordable housing SPD expects RES developments, amongst other things, to be sympathetic to the form and character of the village. Furthermore, in order to achieve a successful development, the affordable housing SPD advises it should not be visually distinguishable from the market housing on site in terms of, amongst other things, architectural details and levels of amenity space; and be fully integrated with the market housing.
20. The appeal concerns a portion of a gently sloping former orchard laid to rough grass situated on the southwestern periphery of Hatch Beauchamp, a small village situated in rural surroundings characterised by a gently rolling arable landscape. The appeal site sits apart from the regular concentration of development that characterises the built-up area of the village and is readily distinguished by its verdant nature, mature hedgerow boundaries and an absence of development.
21. The notable termination in built form on the west side of Station Road and south of Orchard Close contributes to a green and open setting at the outer edge of the village and views across a wider rural landscape. Notwithstanding the proximity to Station Road and Orchard Close housing, the appeal site provides a valuable transition between the built-up settlement and the more rural context beyond.
22. The appeal scheme would develop the site with 12 dwellings, a mix of detached bungalows or two-storey semi-detached houses. Two new accesses would be created, one through the Station Road hedgerow boundary and another off Orchard Close. The south western half of the appeal site would remain undeveloped; boundary vegetation would largely be retained; and low-profile housing would occupy the highest part of the site. Nevertheless, the proposal would form an obvious urban intrusion onto the site and influence a perceptible 'creep' or sprawl of built form out from the village limits into the open countryside.
23. Through the introduction of domestic buildings, gardens, extensive surface parking and new footways, the urbanising effect of the proposal would be obvious. Particularly looking towards the south west from the corner of Station Road and Home Orchard, the rural landscape definition that the appeal site contributes to the village's setting would reduce.
24. Of the dwellings proposed, just one semi-detached pair would address Station Road, while the remainder would be orientated towards the two shared driveways. There are examples of cul-de-sacs and inward-facing developments further within the developed core of the village. However, in the vicinity of the appeal site, extant development

tends to either front streets and have independent accesses off them, or to comprise a discrete developed enclave with a distinctive townscape character. Although much of the Station Road hedgerow boundary would be retained, the proposal would advance a development that would be more akin to a suburban housing estate that would be incompatible with the countryside periphery of this rural settlement.

25. During my site visit I took note of the range of local material treatments in development, and the existence of single-storey modestly-scaled cottage-like housing. However, the proposal would not only introduce a range of six house types: detached, semi-detached, single and two-storey, they would be arranged around two shared driveways, occupy varying plot sizes, and be executed with an assortment of material finishes. For a relatively modest development overall, the range of building design, materials, scale and orientation would be so varied that, in my judgement, the scheme would lack of coherence or design continuity as a whole. Rather, the scheme would advance a fragmented and disjointed development that would fail to achieve a distinctive sense of place.
26. As proposed, all of the affordable units would be comparatively modest in size and form compared to the open market dwellings and have markedly smaller external provision. Indeed, the only semi-detached properties would be the affordable ones. Furthermore, four of the six of the affordable units would be located at the end of the shared driveway, cause them to appear set apart from, and not convincingly integrated with, the open-market dwellings. Taken as a whole, I consider the proposal would fail to achieve successful integration between affordable and open-market dwellings, which would run counter to the SPD guidance and the principles of good design.
27. Whilst there may be constraints on the site owing to odour exposure, nevertheless, I consider that the proposed development proposal would not be of a scale, design and layout compatible with the rural character of the area. Rather, it would have a harmful effect on the character and appearance of the area. Conflict therefore arises with Policies DM 2, DM 4 and CP 8 of the CS, as well as with Policies SB1 and D7 of the SADMP. Amongst other things these policies seek to ensure development is of a scale, design and layout compatible with the rural character of an area; encourages a sense of place; conserve the open character of the area; protects or enhances landscape and townscape character; and is designed and sited to minimise landscape and other impacts. There would also be conflict with policies within the Framework that seek to achieve well-designed places, establishes or maintains a strong sense of place, ensure development maintains an area's prevailing character and landscape setting, and which recognises the character and beauty of the countryside.

Other considerations and planning balance

28. I consider that UU1 and UU2 would be directly related to the development, be reasonably related in scale and kind, and necessary to make the development acceptable in planning terms. As such, I consider they would satisfy the relevant tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010.
29. The proposed development would offer six affordable homes. The appeal proposal would deliver a higher percentage of affordable housing compared to the policy requirement for development within settlement boundaries. There is also an acknowledged need for affordable housing across the local authority area and the delivery of affordable homes where there is a demonstrable local need attracts significant weight in favour of the proposed development.

30. Additionally, the proposal would bring forward six open market dwellings that would satisfy the Government's objective of boosting the supply of homes, with no upper limit. All of the dwellings the appeal scheme would deliver would contribute to a choice of homes, creating mixed and balanced communities and bring associated social and economic benefits, including during the construction phase, through CIL contributions, and as future residents feed into the local economy. However, there is an extremely limited range of services and facilities in Hatch Beauchamp and no compelling evidence that any would be under threat in the absence of the proposal. This reduces the weight I attribute to these benefits to a modest level.
31. The proposal, in my judgement, would not cause harm in respect of flood risk, biodiversity, living conditions or highway safety. There would be financial contributions towards play equipment and contributions towards achieving phosphates neutrality and mitigation in relation to the Somerset Levels and Moors SPA and Ramsar site. However, all of this would be largely as mitigation and attract neutral or very modest weight in the overall planning balance.
32. On the other hand, the proposal would be at odds with the overall spatial strategy and would harm to the character and appearance of the area. Any RES scheme would inevitably involve development in the open countryside. Even if the landowner in this case may be unwilling to consider a smaller scheme, the delivery of RES affordable housing should not come at the cost of an up-to-date settlement strategy or the character and appearance of an area. The 'tilted balance' does not apply in this case and the proposed development would not be in a suitable location. Rather it would not represent a sustainable form of development for the purposes of the Framework or development plan. The weight of other considerations in favour of the appeal do not, in my judgement, justify making a decision other than in accordance with the development plan.

Conclusion

33. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rebecca Randall – Principal Planner, WYG (Agent)

Robin Upton – Director (Planning), WYG

Craig Worden – Senior Architectural Technician, Reed Holland Architects

Rob Murdock – Director, RMA Environmental Ltd

Andy Lehner – Director, West of England Developments Ltd (Appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Jeremy Guise – Planning Officer

Cllr Simon Coles – Head of Planning

Cllr Ross Henley – Ward Councillor

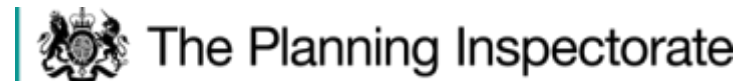
Simon Breeze – County Ecologist

INTERESTED PERSONS:

Christine Scott – Chair, Hatch Beauchamp Parish Council
Kevin Comer
Anette Cox
Rod Harrington
Pippa Fowler
Robert Fowler
Ruth Halliday
Salliea Lemba
Susan Comer-Jones

DOCUMENTS

- 1 Appellant's Opening Summary
- 2 Somerset West and Taunton Draft Design Guide
- 3 Briefing note on AH and Off Site Play Contribution UU
- 4 Briefing note on Nutrient Neutrality Measures UU 16.12
- 5 Phosphates Mitigation UU 16.12 (clean)
- 6 Phosphates Mitigation UU 16.12
- 7 Certified Copy NNM UU 17.12
- 8 Final Schedule of Proposed Conditions



Costs Decision

Hearing Held on 16 & 17 December 2020 Site visit made on 23 December 2020 **by H**

Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Costs application in relation to Appeal Ref:

APP/W3330/W/20/3246143 Field located to the west of Station Road and to the south of Home Orchard, Hatch Beauchamp

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by West of England Developments (Taunton) No2 Ltd for a full award of costs against Somerset West and Taunton Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of 12no. dwellings with associated access, landscaping and drainage works.
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Decision

1. The application for an award of costs is refused.

The submissions

2. The appellant's application for costs was submitted in writing, followed by a written response to the Council's rebuttal. The written application was made on substantive grounds and on the basis that, in relation to the planning merits of the appeal, the behaviour of the local planning authority has led to unnecessary and wasted expense.
3. The written application was briefly supplemented orally at the Hearing and the points made can be summarised as follows: that the Council's first and second reasons for refusal were unevidenced; that the transcripts of the Committee meeting show limited consideration given to matters of design; that the Council has shown inconsistency in its decision-making; and that the Council's decision has delayed development and that costs should be awarded in full.
4. The Council submitted a response to the appellant's costs application in writing. The following additional points were made orally during the Hearing: that bungalows involve higher build costs and the proposal would not represent the minimum of market housing; that the weight to be applied to the viability assessment rests with the decision maker; that the Council's Member's gave good and reasonable grounds for their decision based on the officer report and had acted in a reasonable way.

Reasons

5. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
6. In this case, the Officer's report included a recommendation for approval. It is not unreasonable for the Committee Members to have reached an alternative conclusion, that is, provided evidence to substantiate each reason for refusal was given and that vague, generalised or inaccurate assertions had not been introduced. In my opinion, the transcripts of comments made during the meeting do not reflect of the full substance of the Council's position, which was set out clearly within its Statement of Case and evidence given at the Hearing.
7. The Council's first reason for refusal refers to the development as being for twelve dwellings in the open countryside. In isolation, the Council's first reason for refusal deals with the proposal being contrary to the settlement strategy. The second reason, more specifically, reflects the nature of the proposed development as being for RES affordable housing in the countryside. The first and second reasons are inextricably linked. Through its Statement of Case along with evidence put forward during the Hearing, the Council provided an objective analysis of the specific areas of concern and substantiated its first and second reasons for refusal.
8. I do not agree that the Council considered CS Policy SP1 in isolation, rather as the proposal failed to satisfy Policy DM 2, it inevitably did not find support through the overarching spatial and sustainable development policy. As will be seen from my

decision letter, in concluding that the development would not satisfy the RES policy, I too found that the proposal would be Council's overarching settlement strategy.

9. The third reason for refusal related to matters of design, character and appearance. Through various iterations the appellant has evidently sought to address concerns raised during the application process. Nevertheless, it is apparent to me that the issue of design was not wholly resolved, rather, in weighing up the benefits of the scheme, the Council's officer was content to accept the design and layout. I do not wish to speculate on how the committee meeting unfolded, nor the time spent discussing specific matters. The issues of character, appearance and design run through various local and national policies, including CS Policy DM 2, indicating that RES development and good design are therefore not mutually exclusive. Furthermore, within their Statement of Case, the Council was able to articulate its concerns in a specific way that tied into development plan policy. On this basis, the Council was able to substantiate its third reason for refusal.
10. On the matter of planning policy, I do not consider the Council has misapplied or misdirected itself, nor failed to have regard to the development plan policies that are most important in determining the appeal. I do not agree that the Council specifically rejected the principle of a rural exception site per se. The Council has clearly assessed the proposal on the basis that some open-market cross subsidy is provided for in the Framework. Without a definition of what a 'small proportion' or 'proportion' in respect of open-market cross subsidy for RES schemes, the Council took account of various factors, including percentage of affordable to open-market, in coming to a view that the level of open-market would be excessive. The Council were entitled to take account of their SPD guidance; even if the wording didn't directly align with the Framework, the substance of the guidance did.
11. That the Council's officers agreed with the appellant's viability assessment and its conclusions is noted. The Committee Members were not duty-bound to accept the report nor the officer recommendation. The evidence I heard during the Hearing persuaded me to the view that the level of open-market cross subsidy would not be the minimum necessary provision. It will be seen from my decision letter that I agreed with the Council and found that the proposal would be in conflict with CS Policy DM 2 and paragraph 77 of the Framework on that basis.
12. I have borne in mind that the Council has granted RES development outside of settlement boundaries; and in circumstances when there was an open-market provision in excess of 50%. I do not know the specific planning considerations in those cases; to my mind, those examples illustrate that under different circumstances, the Council can be willing to accept RES development for affordable housing. In this instance, discussions on conditions or clauses within a S106 would not have satisfied what ultimately were in-principle concerns with the location and design of the development. It was not unreasonable for the Council's officer to defer to the direction of Committee Members' thinking, especially if the planning judgement, as in this case, was a finely balanced one.
13. I am aware that the appellant worked proactively with the Council throughout the application process and that the Committee Members' decision, and subsequently my own, would be a disappointment. However, all things considered, I do not find the Council has prevented development that should have been approved nor has it acted unreasonably.

Conclusion

14. In conclusion, unreasonable behaviour has not been demonstrated. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that a full award of costs is not justified.

H Porter

INSPECTOR

Site: HIGHER HOUSE FARM, HUNTHAM, NORTH CURRY

Proposal: Permanent Residential Use at Higher House Farm, Huntham, North Curry

Application number: E/0178/36/13

Reason for refusal: Appeal – Dismissed

Original Decision:



The Planning Inspectorate

Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 10 February 2021

Appeal Ref: APP/W3330/C/20/3260489 Higher House Farm, Huntham, North Curry, Taunton TA3 6EF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Anne Kemp against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice was issued on 21 August 2020.
- The breach of planning control alleged in the notice is failure to comply with condition No 03 of a planning permission Ref: 36/19/0027 granted on 6 November 2019.
- The development to which the permission relates is "Variation of condition 3 (holiday use) of permission 36/07/0016". The condition in question is No 03 which states that: *The property shall be used for holiday accommodation purposes only and shall not be occupied as a person's sole or main residence. The site owner or operator shall maintain an up to date register of the names and addresses of all occupiers of the property on the site for the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.* The notice alleges that the condition has not been complied with because the barn is being used as a permanent dwelling.
- The requirements of the notice are: Comply with Condition 3 of planning permission ref 36/19/0027.
- The period for compliance with the requirements is: Three months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the Enforcement Notice (EN) is varied by deleting "Three months" from under section 6 and replacing that with "Nine months". Subject to this variation, the appeal is dismissed and the EN is upheld.

Procedural Matters

2. Prior to determining the appeal, I sought the views of the appellant and the Council about not needing to visit the appeal site. This is because there are no planning merits to consider and both sides had submitted sufficient evidence for me to consider the points in dispute under the two grounds of appeal pleaded. No objections were raised to this approach. I am satisfied that no prejudice has been caused by not visiting the site.
3. Under the two grounds of appeal pleaded, I cannot have regard to any matters of planning merit such as whether the building is well suited to holiday accommodation and if the holiday occupancy condition should be lifted. I also cannot consider exempting the appellant from the restrictions of the condition. I shall though consider the time given to comply with the EN under the ground (g) appeal below.

The ground (b) appeal

4. An appeal on this ground is based on the claim that the matter stated in the EN has not occurred. In this case, the appellant needs to show, on the balance of probability, that the holiday occupancy condition has not been breached. Despite the details about persons who have holidayed at the property, there is countering very strong evidence from persons with first hand local knowledge writing in support of the appeal, and the Parish Council, which refers to concerns that the appellant would be evicted from her home. The Council also state that all postal correspondence is sent to the address at Higher House Farm, the appellant's GP is local, and she is registered to vote locally.
5. I acknowledge that for health reasons and the coronavirus pandemic travel restrictions, the appellant's normal lifestyle of moving around the UK and abroad have not been possible. However, the balance of the evidence clearly shows that when the EN was issued, and for what appears to be a prolonged period, the appellant was living at the dwelling and was not there for holiday purposes. Planning condition on planning permission ref: 36/19/0027 restricts the property to be used for holiday accommodation purposes only.
6. Given the above, there is no alternative other than to find that the condition has been breached. Consequently, the ground (b) appeal cannot succeed. **The ground (g) appeal**
7. I acknowledge from the Council's point of view that there is an enforcement history related to the occupancy of the appeal property and it was considered expedient to take enforcement action. However, at the time of my decision the coronavirus pandemic is still having a serious adverse effect on people's normal lives and the ability to travel, and even contemplate holidays. Moreover, there is the appellant's age and health to take into account.
8. In ordinary times a three months compliance period would be reasonable. However, in these extraordinary times, there is a very strong case for extending the compliance period to nine months. That would strike the right balance between bringing the breach of planning control to an end, but also allow the appellant the time needed to plan for hopefully some normality from personal and business perspectives later this year. That nine months would run from the date of this decision.
9. To this extent the ground (g) appeal succeeds.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a variation.

Gareth Symons

INSPECTOR