

# APPEAL DECISIONS – 22 JULY 2021

**Site:** THE GREENHOUSE, NEWTONS, NAILSBOURNE, TAUNTON  
SOMERSET TA2 8AQ

**Proposal:** Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at The Greenhouse, Newtons, Nailsbourne

**Application number:** 20/20/0026/CQ

**Appeal number:** APP/W3330/W/21/5268761

**Reason for refusal:** Allowed

**Original Decision:** Delegated Decision



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## Appeal Decision

Site Visit made on 12 May 2021 by **Nick Davies BSc(Hons)**

### BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

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### Appeal Ref: APP/W3330/W/21/3268761 The Greenhouse, Newtons, Nailsbourne, Taunton, Somerset TA2 8AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mrs Donna Thomas against the decision of Somerset West and Taunton Council.
  - The application Ref 20/20/0026/CQ, dated 24 September 2020, was refused by notice dated 13 November 2020.
  - The development proposed is conversion of commercial greenhouse to dwelling together with formation of parking & garden area.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of commercial greenhouse to dwelling together with formation of parking & garden area at The Greenhouse, Newtons, Nailsbourne, Taunton, Somerset TA2 8AQ in accordance with

the terms of the application, Ref 20/20/0026/CQ, dated 24 September 2020, and the plans submitted with it, subject to the following conditions:

- 1) The development must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 of The Conservation of Habitats and Species Regulations 2017.
- 2) The development must be completed within a period of 3 years starting with the date of this decision.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 1920/1 Sheet 1 of 2 – Measured Building Survey; 1920/2 Sheet 2 of 2 – Measured Building Survey; 1920/3 Sheet 1 of 2 – Floor Plan/Section; 1920/4 Sheet 2 of 2 – Elevations; 1920/5 – Location/Site Plan.

## **Background and Main Issue**

2. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph

Q.1. The Council raises no concerns in respect of the proposal complying with criteria Q.1 (a)–(h) and (j)–(m). The Council considers, however, that the development is not permitted by Class Q, because the proposal contravenes the requirements of paragraph Q.1(i).

3. Consequently, the main issue is whether the building operations involved in the development would be to an extent reasonably necessary for the building to function as a dwellinghouse.

## **Reasons**

4. The building is a single storey steel-framed horticultural glasshouse. The framework comprises two spans, each having a twin-pitched roof with structural gutters supported by lattice girders. The roof largely comprises of glazed units, and the external side walls are composed of low-level blockwork with glazing panels above. There is an open-sided triple-pitched roof canopy attached to the eastern end of the building, with a small blockwork store underneath. The whole building is on a solid concrete floor slab.
5. The application was accompanied by a Structural Report, which found that the main steel-framed structure, blockwork walls, glazed panels, and floor slab were in a sound structural condition. Design assessment checks on the steel frames revealed that they were capable of safely supporting the loads from the proposed conversion. Overall, the report concluded that, although some repairs would be required to the external cladding and low-level walls, the building could be satisfactorily converted to residential accommodation. As the Structural Report was prepared by a suitably qualified professional, and there is no evidence to cast doubt on its findings, I give it significant weight in my decision.
6. The development would involve the retention of the glass roof, low-level block walls, and the majority of the glazed side wall panels. Relatively small areas of glazing in the east and west elevations would be replaced with vertical timber panels containing new doors and windows. Internally, new insulated walls and partitions would be

constructed off the existing floor slab. These walls would, in turn, support a fully insulated ceiling under the glazed roof. The internal walls would be set well back from the external glazed side walls of the existing structure, with the resultant spaces being utilised as conservatories, covered terraces, a porch, and a kitchen garden. The open-sided canopy would be retained to provide a covered terrace/play area, but the blockwork store would be demolished.

7. There would be some external changes to the building, through the construction of the timber panels, the demolition of the store, and the removal of three sets of doors. However, Class Q(b) of the GPDO permits building operations that are reasonably necessary to convert the building to a dwellinghouse. Paragraph Q.1(i) specifies that the installation or replacement of windows, doors, and exterior walls, and partial demolition, are not excluded from this definition. The timber panels would be necessary to provide enclosure to the internal accommodation, and the removal of the doors would allow ventilation to the terraces and porch and, in turn, to the living accommodation within. The demolition of the store would allow light to reach the internal accommodation. All of these works would, therefore, be necessary to allow the building to function as a dwelling, so would be permitted development.
8. The Planning Practice Guidance advises that internal works are not generally development, and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including internal walls, which are not prohibited by Class Q. Consequently, the internal insulated walls, partitions and insulated ceiling would fall within the scope of the permitted development rights conferred by Class Q of the GPDO.
9. The Council contends that the construction of four walls within the glasshouse would, effectively, constitute the erection of a dwelling within the existing building, and would constitute a rebuild rather than a conversion. In this regard, my attention has been drawn to the Hibbitt<sup>1</sup> case, which considered the difference between conversion and rebuilding. That case, however, involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. The appeal proposal, by contrast, involves a building that is fully enclosed. The exterior walls would remain largely unaltered, and the roof would be retained in its entirety. The starting point for the conversion would not, therefore, be a skeletal structure, as in the Hibbitt case.
10. I acknowledge the Council's concern that the construction of a freestanding dwelling, within the shell of a larger building, could not be considered to be a conversion. However, that is not what is proposed in this case. The existing building would be integral to the resultant dwelling. Some of the areas of the existing building, outside the new internal walls, would form additional living space, in the form of conservatories accessed internally from the principal rooms. Other parts would be utilised as covered terraces and a porch, which would provide sheltered space immediately outside the living accommodation. The glazed roof would provide a weatherproof cover for the new insulated ceiling, and the exterior structure would provide solar gain for the living accommodation. The internal work would not, therefore, constitute a new dwelling that would be independent of the existing building.
11. Whilst a significant amount of work would be required to render the building suitable for residential accommodation, the works would either be permitted by Class Q.1(i) of the GPDO, or would be internal work that would not constitute development.

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<sup>1</sup> Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

Furthermore, the proposal would not involve any new structural elements, and the existing building would remain largely intact. The resultant building would not be significantly different in its external appearance. In these circumstances, the works would constitute conversion of the building rather than re-building.

12. For the above reasons, I conclude that the building operations involved in the development would be to an extent reasonably necessary for the building to function as a dwellinghouse. Consequently, the proposal would comply with the requirements of paragraph Q.1(i) of the GPDO.

## **Other Matters**

13. The application site falls within the catchment area flowing into the Somerset Levels and Moors Special Protection Area and Ramsar site. Natural England has raised concerns regarding nutrients entering watercourses in this catchment. New housing will result in an increase in phosphates contained within foul water discharge. As the Ramsar site is in unfavourable condition, any increase, either alone or in combination with other developments, would have a likely significant effect on the protected site.
14. Regulation 75 of the Conservation of Habitats and Species Regulations 2017 provides that it is a condition of any planning permission granted by the GPDO, that development which is likely to have a significant effect on a European site, alone or in combination with other plans or projects, must not be commenced until the developer has received written approval from the local planning authority under regulation 77. I have therefore imposed a condition to this effect for the avoidance of doubt.

## **Conditions**

15. Planning permission granted for the change of use of agricultural buildings to dwellinghouses under Schedule 2, Part 3, Class Q of the GPDO must be completed within a period of 3 years, starting with the prior approval date, in order to comply with condition Q.2(3). I have therefore imposed a condition to this effect for the avoidance of doubt. In the interests of certainty, I have also imposed a condition requiring that the development is carried out in accordance with the approved plans.

## **Conclusion**

16. For the reasons given above, I conclude that the appeal should be allowed.

*Nick Davies* INSPECTOR

**Site:** LAND AT GREENWAY WOOD, SOUTH DRIVE, BISHOPS LYDEARD, TA4 3BZ

**Proposal:** Change of use of land for siting of 4 No. timber glamping pods and erection of welcome office with associated access and parking on land at Greenway Wood, South Drive, Bishops Lydeard

**Application number:** 06/20/0009

**Appeal number:** APP/W3330/W/21/3268194

**Reason for refusal:** Dismissed

**Original Decision:** Chair Decision



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## Appeal Decision

Site Visit made on 8 June 2021 by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

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### Appeal Ref: APP/W3330/W/21/3268194 Land at Greenway Wood, Bishops Lydeard TA4 3BZ

- 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 A Goddard against the decision of Somerset West and Taunton Council.
  - The application Ref 06/20/0009, dated 5 March 2020, was refused by notice dated 22 September 2020.
  - The development proposed is change of use of land for the siting of four timber camping pods and associated ancillary development including welcome office, access and parking.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. On 1 April 2019 Taunton Deane Borough Council merged with West Somerset Council to become Somerset West and Taunton Council. The development plans for the merged local planning authority remain in place for the former area of Taunton Deane Borough Council until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Taunton Deane Borough Council.
3. During the appeal process the Council raised an issue with the ownership of the site, as declared by the appellant in his submissions. The Council are of the view that Dan's Engineering Ltd is the legal owner of the appeal site. The appellant has

confirmed that he is authorised to represent Mr Daniel Puddy and his business activities involving Dan's Engineering Ltd, and that Dan's Engineering Ltd have been involved with and are fully aware of the appeal proposal. I am therefore satisfied that no party has been prejudiced by this matter. **Main Issue**

4. The effect of the proposal on the significance of the grade II\* listed building, known as Sandhill Park.

## Reasons

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
6. Sandhill Park, referred to as Sandhill Park Hospital on the list entry, is a substantial grade II\* listed country house. It dates from approximately 1720, with a portico and wings added circa 1815. It 7 bay front is three storeys high and fronts a double pile plan. It occupies a gently elevated position, facing out over an extensive area of open parkland laid to pasture with parkland trees. The southern extent of the parkland is defined by an area of woodland. The principal approach to the building is through this woodland from South Drive. A lodge building defines the start of the drive, at its junction with Greenway Road. Beyond this the driveway passes through the mature woodland before it breaks out into the open area of parkland where the principal elevation of the house can be glimpsed between trees in its pastoral setting.
7. This arrangement gives a strong naturalistic setting to the house, with a pleasant transition between the informal wooded areas along the southern part of the drive, to the more formal landscape as one moves through the parkland towards the front of the house. Existing development to the east side of the southern end of the drive and to the east of the house detract from this setting to a certain extent. However, between these areas the character of what would appear to be a deliberately planned approach to the house, through a tranquil area of woodland and into the more open area of parkland, has been largely retained, and is a highly important aspect of the building's setting that contributes significantly to its special interest.
8. The proposal would see a loose arrangement of four accommodation pods set within the area of woodland alongside South Drive. They would be served by a small parking area and welcome building and accessed by individual paths. The pods would be set amongst existing trees, facing informally towards a clearing in the woodland.
9. The pods would be modest structures, with a simple curved timber roof that would wrap over the structure with vertical walls at the front and back. The front wall would be set back slightly, to provide some cover to the entrance door. If left to weather down to develop a natural finish, the placement of these pods alone would not be prominent to view from South Drive and would have little impact on the designed approach to the listed building.
10. The parking area would however be much closer to South Drive. I am mindful that intervening under storey planting would be increased to limit visibility of this area from the Drive, and that the track providing access to the parking area would have a low visual impact, however given the distance I consider it likely that someone walking along the drive would be well aware of the presence of parked cars within the adjacent area of woodland. The degree by which parked cars erode the tranquil approach to

the house along the drive would be increased by the movement of vehicles and associated activity within the parking area.

11. The welcome lodge would be larger than the proposed pods, and would have the appearance of a domestic summerhouse, with a low pitched roof and eaves height that would roughly align with the head of its window and door opening. This would be positioned just beyond the car park area. As a larger building it would be visible over the height of parked cars and understorey planting. Although still a timber structure, it would have a more angular form than the camping pods and would thus be a more intrusive addition to the naturalistic woodland setting.
12. When considered in combination the visibility of the elements of the proposal closest to South Drive, coupled with the activity associated with the parking area and the use of the welcome lodge as well as the activity arising from persons staying at the pods, would create visual harm as well as harm to the tranquil setting of the woodland. These impacts would be increased during the winter months when trees in the woodland, most of which are deciduous, would be without leaf. The proposal would thus erode the quality of the approach to the house, which would in turn harm its special interest.
13. In terms of the National Planning Policy Framework (the Framework) the harm would be less than substantial. Paragraph 196 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
14. The proposal would introduce a new tourism use. Guests staying at the site would be likely to spend money locally on food and various local attractions, including the nearby steam railway. The proposal would thus benefit the local economy. However, this would be limited by the small scale of the proposal.
15. The proposal would generate some employment during the construction phase. In addition, persons would be employed to manage the units. Both would constitute a public benefit, however the level of employment generated would be modest.
16. It is suggested that the proposal would secure better management and restoration of the woodland and would give it a viable long-term use. However, the information before me states that a legal agreement associated with the original planning approval for the wider site is in place already, and that this covers the management of Greenway Wood. The site is not previously developed land, or in such poor condition that it would appear to warrant a new use. I am thus not satisfied that this matter is a public benefit that would weigh against the heritage harm identified.
17. As set out above, the proposal would cause harm to the building's special interest in the form of a harmful change to a significant aspect of its setting. Paragraph 193 of the Framework establishes that great weight should be given to the conservation of a heritage asset. In this context I find that the public benefits of the proposal would not be sufficient to outweigh the degree of harm identified.
18. In summary, the proposal would fail to meet the requirements of the LBCA as it would cause harm to the setting of the listed building. It would thus be contrary to Policies SP1, SB1, CP1, CP8, DM1 and DM2 of the Taunton Deane Core Strategy 2011-2028 (CS) and Policy D7 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016, which together seek to ensure that development proposals conserve and enhance the historic environment.

19. In its reason for refusal the Council also referred to Policies SB1, CP2 and CP6 of the CS. I am however not satisfied that these Policies are relevant to the Council's refusal reason or the main issue of the appeal.

## **Other Matters**

20. The appellant refers to the proximity of the site to public transport. The appellant also refers to a previous appeal decision<sup>2</sup> and other decisions by the Council where the settlement boundary was a main issue, including proposals for holiday units. However, none of these matters are a main issue of the appeal before me or are matters that could weigh in favour of the proposal in the context of my finding of heritage harm.

21. Natural England has advised the Council about the high levels of phosphates in the Somerset Levels and Moors Ramsar site. The proposal falls within the development types identified by Natural England that may give rise to additional phosphates within the catchment of the Ramsar. No information is before me relating to the level of phosphates that would be generated by the development, or details of any measures that may off-set the impact. However, as I am dismissing the appeal for other reasons, the proposal cannot give rise to additional phosphates, and this matter does not therefore need to be considered further.

## **Conclusion**

22. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons above, I therefore conclude that the appeal should be dismissed.

*A Tucker*

INSPECTOR

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<sup>2</sup> APP/D3315/W/17/3179264



**Site:** MIDDLE SWEETHAY FARM BARN, SWEETHAY LANE, TRULL,  
TAUNTON, TA3 7PB

**Proposal:** Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at The Greenhouse, Newtons, Nailsbourne

**Application number:** E/0062/42/18

**Appeal number:** APP/W3330/F/20/3253765

**Reason for refusal:** Dismissed / Costs - Refused

**Original Decision:**



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## Appeal Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 25 June 2021

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### Appeal Ref: APP/W3330/F/20/3253765 Sweethay Farm Barn, Sweethay, Trull, Taunton, Somerset, TA3 7PB

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Anthony Ormerod against a listed building enforcement notice issued by Somerset West and Taunton Council.
  - The enforcement notice, numbered E/0062/42/18, was issued on 28 April 2020.
  - The contravention of listed building control alleged in the notice is 1) the unauthorised insertion of a rooflight at roof level on the western elevation; and 2) the unauthorised installation of concrete roof tiles on the main barn.
  - The requirements of the notice are 1) remove the rooflight in the main roof of the western elevation roof slope and reinstate clay double Roman roof tiles over the void; and 2) remove the concrete roof tiles from the main roof and reinstate clay double Roman roof tiles.
  - The period for compliance with the requirements is 6 months.
  - The appeal is made on the grounds set out in section 39(1) (a), (c), (e), (f), and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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## Decision

1. The appeal is dismissed and listed building consent is refused for the insertion of a rooflight at roof level on the western elevation and the unauthorised installation of concrete roof tiles on the main barn.

## Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

## Main Issues

3. The main issues are whether the appeal property is within the curtilage of a listed building and whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.

## Appeal Site

4. The appeal property is the southern half of a barn converted to holiday lets. The northern half of the barn is in separate ownership as is Middle Sweethay Farmhouse which is listed grade II. The barn is in close proximity to the farmhouse across a small yard which has been sub-divided by fencing from the appeal property. The subject barn is on two floors with a rear single storey annex dating from the 1970s and having concrete tiles, although these tiles are not the subject of the notice.

## Relevant Planning History

5. Application 42/16/0026 was approved subject to conditions for the change of use of the barn to form holiday accommodation and 42/16/0014LB approved various internal and external alterations to the barn.
6. Application 42/18/0025 for the variation of Condition 02 (approved plans) of 42/16/0026 was retrospective and involved the change of roof material on the main barn roof from clay double roman concrete tiles and for the insertion of a roof light. The refusal reason states that "The proposed change of roof tiles from clay to concrete harms the character and appearance of the listed barn by adding a modern material that has a uniform and regular appearance and colour. The insertion of the roof light is visually intrusive and when combined with the new roof tiles causes harm with no corresponding public benefit to offset the harm. The proposals are therefore contrary to the provisions of Chapter 16 of the National Planning Policy Framework and policy CP8 of the adopted Taunton Deane Core Strategy 2011-2028."
7. A listed building application for the retention of various works to the barn has been deemed invalid (42/20/0027/LB/INV).
8. It is noted that the conversion of the adjacent barn to a holiday let was approved in 2011.

## Policy Background

9. Section 16 of the LBCA requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, before granting listed building consent. In addition to the duties under the Act referred to above, the policies of the development plan for Taunton Deane are also material considerations as is the National Planning Policy Framework (the Framework).

## Appeal on ground (f)

10. Although an appeal has been made on the ground that the notice was not served correctly, no evidence has been submitted to support this claim.
11. The appeal on this ground fails.

## Appeal on ground (a)

12. An appeal on this ground is that the building is not of special architectural or historic interest on the basis that the appeal building is not included in the listing description, is not within the curtilage of the listed building, is a separate planning unit and in separate ownership. The appellant cites *Hants CC & the Open Spaces Society & Others v SEFRA & Blackbushe Airport Ltd [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 398* in support.
13. Middle Sweethay Farmhouse was listed on 3 March 1988 and the description refers to it being a farmhouse C16 possibly earlier, enlarged C17, restored late C20. The barn is not mentioned in the list description but this does not mean that it is not curtilage protected. Section 1(5) of the Act confers protection to any object or structure within the curtilage of a listed building that has formed part of the land since before 1<sup>st</sup> July 1948.
14. The Council's statement clearly sets out the various considerations in their assessment of whether the barn is curtilage listed and cites *Debenhams PLC v Westminster CC [1987] AC 396* and *A-G ex rel Sutcliffe v Calderdale BC [1983] JPL310*. In summary, these are that the outbuildings fall within the curtilage of the farmhouse at the time of listing and historically, and formed one enclosure. There is a strong boundary wall built into the outbuilding and this forms the northern boundary of the Middle Sweethay curtilage. The shared courtyard is small and was sub-divided with fences following listing. The buildings are intimately related in the historic development of the farmstead, proximity, layout and function such that they are part of an integral whole and a single unit.
15. The appellant refers to English Heritage Listing within the Trull area indicating properties with barns or the listing of a barn in its own right but such information does not assist in this case which I have considered on the facts and judicial authority.
16. The appellant draws attention to the *Sinclair Lockhart's Trustees v Central Land Board [1950] 1 P. & C.R 195* regarding the interpretation of 'curtilage'. Whilst the barn may now be functionally separate to the farmhouse and in different ownership, this was not the case at the time of listing or in 1948. The appeal property satisfies the tests set out in s1(5) of the Act regarding the meaning of a listed building.
17. Reliance is also placed by the appellant on changes that have occurred to the planning unit and I accept that the appeal property appears now to be in a separate planning unit to that of the attached barn and farmhouse. However, this is of limited materiality to the conclusion regarding curtilage listing as "the planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use"<sup>3</sup>.

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<sup>3</sup> Encyclopedia of Planning Law and Practice P55.44

18. I note that in *R(Egerton) v Taunton Deane BC [2008] EWHC 2752*) it was held on the facts of that particular case that for one building to be within the curtilage of another building, their relationship must be both functional and spatial. However, this does not overcome the fact that there was both a functional and spatial relationship of the appeal property with Sweethay Farmhouse at the relevant date, notwithstanding the appellant's reliance on the farmhouse being a dwelling and the barn originally being used for agricultural purposes.
19. I am left with no doubt that on the facts of this case and having had regard to all relevant judicial authority raised by the parties, the appeal property is a curtilage listed building.
20. The appeal on this ground fails.

### **Appeal on ground (c)**

21. An appeal on this ground is that if the matters occurred they did not constitute a contravention.
22. As I have concluded that the building is curtilage listed, the works subject to the notice are unauthorised in the absence of listed building consent.
23. The appeal on this ground fails.

### **Appeal on ground (e)**

24. An appeal on this ground is that listed building consent ought to be granted for the works, or that any relevant conditions of such consent which has been granted ought to be discharged, or different conditions substituted.
25. The Framework at paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction or from development within its setting) should require clear and convincing justification.
26. In this case the significance of the listed building arises from its historic role as a farmstead comprising the relatively substantial farmhouse, the subsidiary barn and the small courtyard. The presence and appearance of traditional materials form a key aspect of the historic and aesthetic significance of a listed building. Its setting is created through the disposition of other buildings, lanes and spaces in its vicinity. Various different roofing materials have been employed in the construction of neighbouring buildings and some roof lights are visible.
27. The Council's submitted photograph of the adjoining barns prior to conversion illustrates the simple form of the roof consisting of clay double Roman tiles with the ridgeline of the appeal property being considerably distorted through the passage of time. The renovation of the roof with the use of concrete tiles and the insertion of a centrally placed rooflight, which is visible from public viewpoints, coupled with the other alterations to the building, have created a distinctly domestic character. Additionally, the different external treatment and roofing materials used create two distinctive parts to the barn which is exaggerated through the visible division of the roof between the two units.
28. Much of this change is inevitable when the principle of the conversion of simple, utilitarian agricultural buildings to residential use is accepted but with care in design and with the use of appropriate traditional materials, the adverse effects of physical works can be mitigated to ensure that heritage buildings continue to adapt and serve

a useful purpose. This would have been achieved had the works approved in 42/16/0014LB been carried out but the unauthorised use of concrete tiles and the insertion of a rooflight causes harm to the significance of the listed building and its setting through the intrusive central position of the rooflight and the nature, uniformity and texture of the concrete roof tiles.

29. However, the extent of the harm caused is less than substantial in the context of paragraph 196 of the Framework which states that the harm should be weighed against the public benefits of the development including, where appropriate, securing its optimal viable use. The appellant has not indicated any public benefits arising from the works that offset the harm caused.
30. Notwithstanding the extent of the harm caused I attach substantial weight to this level of harm which is not outweighed by any benefits and I therefore conclude that these unauthorised works are contrary to the Framework and to Policy CP8 of the Taunton Deane Core Strategy which aims to protect the environment including historic assets.
31. I have had regard the representations submitted by the occupant of Middle Sweethay Farmhouse.
32. The appeal on this ground fails.

### **Appeal on ground (h)**

33. The appellant considers that the compliance period of 6 months is too short for all the necessary work to be carried out and having regard to the property being a holiday let. A compliance period of 12 months is requested.
34. However, in my view the unauthorised works should be removed within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate to carry out the requirements of the notice.
35. The appeal on this ground fails.

### **Conclusions**

36. For the reasons given above I conclude that the appeal should fail.

*P N Jarratt*

**Inspector**



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## Costs Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 25 June 2021

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### Costs application in relation to Appeal Ref: **APP/W3330/F/20/3253765 Sweethay Farm Barn**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Anthony Ormerod for a full award of costs against Somerset West and Taunton Council.
- The appeal was against a listed building enforcement notice alleging the insertion of a roof light at roof level on the western elevation and the unauthorised installation of concrete roof tiles on the main barn.

### Decision

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

### Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case relies on the fact that the Council issued a Listed Building Enforcement Notice, claiming that they have not carried out the correct assessment based on case law. The appellant is also critical of the Council in respect of information and advice supplied.
4. The Council has exercised its responsibilities and duty in respect of heritage assets in taking the necessary action to seek the removal of unauthorised works to a curtilage listed building. The notice was served after the failure of the parties to resolve the issues without resorting to formal action. It has been the consistent view that the building is listed and this has been accepted in the past by the applicant. A new Conservation Officer reviewed the position in November 2019 which demonstrates that the Council has been careful in its approach. The appellant has relied heavily on his own interpretation of listed building case law which differs to that of the Council. This is not unusual but it is not a basis to justify unreasonable behaviour.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*P N Jarratt*

Inspector

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**Site:** LUDWELLS BARN, LANGPORT ROAD, WRANTAGE, TAUNTON, TA3 6DQ

**Proposal:** Alleged unauthorised use of holiday let as permanent residential dwelling at Ludwells Barn, Langport Road, Wrantage, Taunton, TA3 6DQ

**Application number:** E/0201/24/19

**Appeal number:** APP/W3330/C/21/3272700

**Reason for refusal:** Appeal Allowed in Part & Enforcement Notice Upheld

**Original Decision:**



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## Appeal Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 5 July 2021

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### Appeal Ref: APP/W3330/C/21/3272700 Ludwells Barn, Wrantage, Taunton, TA3 6DQ

- 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 Mr Fisher Christopher Dodd against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice reference E/02001/24/19, was issued on 29 March 2002.
- The breach of planning control as alleged in the notice is the use of a building on the land (shown edged green on the plan attached to the notice) as permanent residential accommodation in breach of Condition 03 of planning permission reference 24/00/0020 which states "The occupation of the building shall be restricted to bona fide holiday makers for individual periods not exceeding four weeks in total in any period of 12 weeks. A register of holiday makers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times."
- The requirements of the notice are 1) to cease the use of the building referred to in paragraph 3 of the notice as permanent residential accommodation; and 2) comply with Condition 03 of planning permission reference 24/00/0020.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended

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## Decision

1. The appeal is allowed in part and the enforcement notice is upheld. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, Condition No 3 attached to the planning permission dated 13 July 2000, Ref 24/00/0020, granted by the Taunton Deane Borough Council 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 1990 Act as amended for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" without complying with the said condition but subject to the other conditions attached to that permission and to the following new Condition 3:

*The holiday accommodation hereby permitted shall be occupied for holiday purposes only. It 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 occupiers of the self-contained holiday unit and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the local planning authority.*

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## Procedural Matters

2. A building edged blue on the plan attached to the enforcement notice is the subject of a separate notice and appeal (APP/W3330/C/21/3272827) and does not form part of this decision.

## The site and relevant planning history

3. The land subject to the notice is adjacent to Ludwell's Farm and appears originally to have formed part of the range of buildings and yard of Ludwell's Farm. There is a vehicular access through the gate to Ludwell's Farm which provides access to the building the subject of the notice and edged green on the plan attached to the notice. It is of stone and blockwork construction on two floors with a tiled roof. Within the red line of the plan there is the building edged blue and a further building that at the time of my site inspection appeared to be in some form of holiday use although its forecourt contained a quantity of varied materials randomly stored. This has a separate vehicular access from the highway.
4. Planning permission reference 24/00/0020 was issued on 13 July 2000 for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" subject to 4 conditions. Condition 03 of the permission is referred to in the heading above and the reason for its imposition is stated as being "The Local Planning Authority is not prepared to allow a permanent residential site to become established because of the close relationship with out buildings, the restricted curtilage and the inadequate size of the building and wish to ensure that approved accommodation is available for tourism".
5. I note that the reason for the enforcement notice is based on the suitability of its location for a permanent dwelling alone as the Council makes no reference to the



curtilage, relationship with outbuildings and size of the building. set out in the reason for Condition 3. I have therefore considered the locational policy issues in determining this appeal and I consider the main issue is whether the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy.

### **The appeal on ground (a)**

6. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
7. The development plan consists of the Taunton Deane Core Strategy 2012 (CS) and the Taunton Site Allocations and Development Management Plan 2016.
8. The site is outside recognised settlement limits to which Policy SP1 applies. This policy seeks to maintain the quality of the rural environment and regards development outside settlement boundaries as being in open countryside. Policy DM2 specifies uses that will be supported in open countryside which includes the conversion of existing buildings, with the acceptability of such conversions being sequential. Conversion to open market residential use is only appropriate in exceptional circumstances and the appellant has not submitted any information in support of such exceptional circumstances.
9. The CS was adopted after the original Framework was published and would have been consistent with its principles and policies. The 2019 revised Framework supports rural community, business, tourism and leisure uses and rural housing to meet local needs, particularly for affordable housing. It also allows reuse of redundant and disused buildings in the countryside. The Council has referred to a recent appeal decision at Smeathorpe<sup>4</sup> in which the Inspector considered that Policy DM2 is consistent with the revised Framework.  
I have no reason to disagree with that Inspector and I attach full weight to the Policy contrary to the argument of the appellant that the development plan is out of date as it does not take account of changes to the National Planning Policy Framework (the Framework) or case law since adoption.
10. It is also argued by the appellant that whilst Policy DM2 supports the provision of tourism accommodation within existing buildings, there is no policy for resisting the loss of tourist accommodation, citing Bournemouth Local Plan as an example of which has such a policy but I attach little weight to such an argument as it implies that in the absence of an explicit policy, any development is acceptable without regard to the wider aims and objectives of the development plan.
11. It is further argued that as there are no relevant development plan policies the 'tilted balance' of paragraph 11(d) of the Framework should be engaged. The appellant regards SP1 and DM2 as blanket policies and refers at length to an appeal decision in which policies in the Doncaster UDP<sup>2</sup> not being considered to be in line with the 'direction of travel of local and national policies'. However, the appellant has failed to demonstrate that the development plan policies relevant to this appeal are out of date and overlooks policies such as DM2 which remain relevant and in accord with the Framework as concluded by the Smeathorpe Inspector.
12. Paragraph 79 of the Framework states that planning policies should avoid the development of isolated homes in the open countryside except in the specific circumstances listed, none of which apply to the appeal site. The appellant has cited

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<sup>4</sup> APP/W3330/W/19/3237811 <sup>2</sup> APP/F4410/W/17/3169288

Braintree District Council v SSCLG [2018] EWCA Civ 610 about the meaning of 'isolated' and 'settlement', where the Court held that what is a 'settlement' and whether the development would be 'isolated' from a settlement are both matters of planning judgement for the decision maker on the facts of the particular case.

13. Wrantage is a sporadic collection of dwellings and farms along a stretch of the A358 with limited facilities. Ludwells Farm and Ludwells Barn are separated from Wrantage by open fields and could not be regarded as being within a settlement.
14. On the basis of the information submitted by the appellant, the site is 550m from a PH; 500m from a bus stop, 2.9km from a shop, 3.2Km from a PO and 3.37Km from a health centre and primary school. Although there is a footway to Wrantage, the distance to local services indicates to me that the use of sustainable transport modes are likely to be less likely than elsewhere where services are closer, albeit that this is not unusual in rural areas. I attach considerable weight to the absence of sustainable transport opportunities. The development does not accord with Policies CP1 to promote sustainability or with CP6 which seeks to reduce the need to travel.
15. The Council has referred to advice from Natural England dated 17 August 2020 in respect of the implications of the Dutch N case law on the Somerset Levels and Moors Special Protection Area and RAMSAR Site. Natural England advises that an appropriate assessment be carried out of planning applications that will result in a net increase in population served by a wastewater system, including new homes, student and tourist accommodation. However, this appeal relates to a breach of condition and not to a material change of use and the use remains as residential irrespective of the condition. The condition does not limit the period of the year when the property can be used as holiday accommodation, only the duration of occupation by a particular holiday maker. Accordingly the maximum use of the wastewater system could be potentially similar whether in permanent residential use as in holiday use. I therefore attach little weight to the relevance of the advice to this appeal.
16. I conclude that the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy. The proposed removal of the holiday condition would result in an unfettered dwelling in an isolated location remote from services and where residents would be reliant on the private vehicle to meet their daily needs. It would be contrary to Policies SP1, DM2, CP1 and CP6 of the development plan and with the approach of the Framework to residential development in the open countryside.

#### *Other Matter*

17. The appellant has suggested a replacement condition that the Council considers acceptable as it would reflect the wording of similar conditions on more recent decisions. I have the power under s177(1)(b) to discharge Condition 3 of planning permission reference 24/00/0020 and impose a new condition using the power under s177(4).
18. The appeal has limited success on ground (a) to the extent that Condition 3 is replaced with another condition which is no more onerous than the original. The enforcement notice is upheld subject to the replacement condition on the deemed planning application.

## **The appeal on ground (g)**

19. The appellant states that the appeal property is his established home and has been so since 2013 and that a compliance period of 18 months would be more suitable. It is also requested that a concurrent time should be set for the compliance period in relation to the second enforcement notice which would require demolition and clearance.
20. I consider that the breach of condition should cease within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate and proportionate in order to carry out the requirements of the notice. Notwithstanding the outcome of the appeal against the second enforcement notice the Council has the power under s173A(1)(b) of the Act to extend the compliance period specified at its discretion.
21. The appeals on ground (g) fail.

## **Conclusion**

22. For the reasons given above I conclude that the appeal should have limited success on ground (a) but that the enforcement notice should be upheld. I propose to discharge the condition the subject of the notice, and to grant planning permission, on the application deemed to have been made, for the change of use previously permitted without complying with the condition enforced against, but to substitute a less onerous condition as indicated in the decision. The appeal on ground (g) does not succeed.

*P N Jarratt* **Inspector**