



Appeal Decision

Site visit made on 3 July 2014

by **G Powys Jones MSc FRTPI**

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

Decision date: 21 July 2014

Appeal Ref: APP/R3325/A/14/2213458

Barton Farm, Middle Street, Rimpton, Yeovil, Somerset, BA22 8AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Peter O'Brien against the decision of South Somerset District Council.
 - The application Ref 13/04563/S73A, dated 9 November 2013, was refused by notice dated 16 December 2013.
 - The application sought planning permission for the conversion of outbuilding to dwelling annexe without complying with a condition attached to planning permission Ref 04/03187/COU, dated 1 December 2004.
 - The condition in dispute is No 4 which states that: *The accommodation to be provided within the development hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Barton Farm.*
 - The reason given for the condition is: *The building is in a location where a new dwelling would be unsustainable and to accord with policy ST3 of the South Somerset Local Plan Deposit Draft 1998.*
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of outbuilding to dwelling annexe at Barton Farm, Middle Street, Rimpton, Yeovil, Somerset, BA22 8AQ in accordance with application Ref 13/04563/S73A, dated 9 November 2013, without compliance with condition No 4 previously imposed on planning permission Ref 04/03187/COU, dated 1 December 2004, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the additional condition set out in the annexe to this decision.

Preliminary matter

2. The description of the originally approved development relates to the provision of a dwelling annexe. However, notwithstanding this description, the property subject of the condition in dispute is a reasonably sized single storey building of solid construction clearly separated and set well apart from the dwelling known as Barton Farm. The building has 2 bedrooms, a kitchen/diner/lounge and bathroom, and is physically capable of being occupied as a small dwelling.

3. The 2004 planning permission was implemented some time ago, and the building has recently been let as a dwelling in breach of the condition in dispute. The effect of removing the condition in dispute would be to allow the continued use of the building as a separate dwelling, independent of Barton Farm. I shall proceed on this basis.

The main issues

4. The main issues are: (a) having regard to local and national policies governing residential development in the countryside and the principles of sustainable development, whether the continued imposition of the condition in dispute is necessary, and (b) the implications of removing the condition in dispute on the living conditions of the occupants of Barton Farm and the proposed dwelling with particular reference to noise & disturbance, amenity space and privacy.

Reasons

Sustainability and the need for the condition

5. The provisions of policies ST3 & ST5 of the South Somerset Local Plan (LP) (2006) are designed, in combination, to strictly control development outside designated development areas and to promote patterns of land use and transport which reduces the need to travel, minimizes the length of journeys and provides accessibility by a choice of means of transport. Development outside defined settlements is restricted to that which benefits economic activity and does not foster growth in the need to travel.
6. Rimpton is not a defined settlement for the purposes of local policy, is relatively isolated in the Somerset countryside, and its public transport provision is poor. The Council considers that the removal of the condition would be tantamount to the creation of a new dwelling at odds with the thrust of LP policies ST3 & ST5.
7. Nevertheless the Council has indicated '*..that an application for holiday lettings is an alternative use that would/could be supported, and for which conditions are capable of controlling the situation..*'. In this respect, a holiday use would presumably rank as '*economic activity*' for the purposes of LP policy ST3, although those holidaying would probably need the use of a car both to travel to Rimpton from their homes, and to move around once they had arrived.
8. The local policies referred to generally conform to the principles of sustainable development set out in the National Planning Policy Framework (the Framework), in particular, that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
9. However, LP policy ST3 is at odds with an aspect of national policy expressed at paragraph 55 of the *National Planning Policy Framework* (the Framework) on the re-use of redundant or disused buildings in the countryside. The conflict arises over the need in policy ST3 to restrict all development outside defined settlements to that which benefits economic activity. No such requirement arises in national policy on the conversion of disused buildings. In view of this conflict with national policy, this aspect of LP ST3 in its application to

redundant or disused buildings in the countryside attracts very little weight in the context of the Framework's advice at paragraph 215.

10. The original reason for imposing the condition may have been appropriate given the provisions of local, albeit draft, policy at the time. In the light of the Framework's up-to-date policy advice, however, and since the evidence points to the original cowshed having been redundant, dilapidated and its conversion resulted in an enhancement, the original reason for imposing the condition in dispute is no longer apposite. Whilst the building was originally converted to provide residential accommodation for the appellant's parents, circumstances have changed and national policy is not now inimical to conversion to permanent residential use in specified circumstances, such as this.
11. Consequently, I conclude that whilst local policy may support the continuing imposition of the condition in dispute, the more up-to-date policy advice contained in the Framework points to such a condition being unnecessary. The provisions of the Framework - an important material consideration attracting significant weight - indicate to me that the provisions of LP policies ST3 & ST5 should not prevail in this instance.

Living conditions

12. Residents of the two dwellings, if independent of one another, would share an access, and the occupants of the converted building would need to pass the front of Barton Farm to get to their dwelling. Thus the Council considers that much activity would take place *'..under the nose of occupants residing in the original dwelling.'*
13. However, shared access arrangements are not uncommon, even in modern development, and the proposed arrangements that I saw would not give rise to the harmful effects feared by the Council. Moreover, the access arrangements would be the same were the converted building used for holiday accommodation, for which the Council indicated support. The Council's approach is therefore inconsistent in this respect.
14. Barton Farm would have ample external amenity space provision to the rear, but would lack privacy. The existing amenity space provision for the converted building is very limited; it also lacks privacy, and is therefore unacceptable.
15. However, sufficient space is available to provide for the reasonable amenity requirements of the future residents of both dwellings. This could be achieved by the imposition of a suitably worded condition. An acceptable scheme would include an appropriate subdivision to create separate curtilages, the removal of some of the concreted area in front of the converted building and its replacement with greenery, and the means to provide acceptable mutual levels of privacy.
16. I conclude that, subject to the imposition of an appropriate condition to achieve private amenity space for the residents of Barton Farm and the converted building, the removal of the condition in dispute would not result in harm to the residents of either property by reason of noise & disturbance, lack of privacy or inadequate amenity space. Accordingly, no conflict arises with those provisions of LP policy ST6 designed to safeguard residential amenity from the possible ill-effects of new development.

Conditions

17. The Council has not suggested the imposition of any conditions. For the reasons already explained, I consider that a condition is necessary to ensure that both properties have an appropriate level of separation and private external amenity areas of a reasonable size. It is also necessary and that such provision is made within an agreed, acceptable period.
18. The appellant offered a condition the effect of which would be to prevent the converted building being sold. I do not consider this necessary, since the tenure of the converted building is not material to the effects of its use.

Other matters

19. The new national *Planning Practice Guidance* was published earlier this year, but having regard to the facts in this case and the main issues identified at the outset, it has no material bearing on my conclusions.
20. All other matters raised in the representations have been considered but none is of such strength or significance as to outweigh the considerations that led me to my conclusion.

G Powys Jones

INSPECTOR

Annexe – The additional condition

1. The use of the appeal property as an independent dwelling shall cease within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i. Within 3 months of the date of this decision a scheme*, as detailed below, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii. If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

*The **scheme*** shall include: a plan(s) depicting the respective curtilages; the extent and layout of the external amenity areas to be provided to Barton Farm and the converted building respectively, and details of the means of enclosure to each property to provide privacy.*