The Planning Inspectorate

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Your Ref:
Our Ref: APP/Y3940/Q/24/3338782

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

05 December 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr and Mrs C H & S L Palmer
Site Address: Field Farm House, Eastcourt, MALMESBURY, Wiltshire, SN16 9HP

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Jasmine Rogers
Jasmine Rogers

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 23 October 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2024

Appeal Ref: APP/Y3940/Q/24/3338782
Field Farm House, Eastcourt, Malmesbury, Wiltshire SN16 9HP

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) against a refusal to discharge a planning obligation.
- The appeal is made by Mr and Mrs C H & S L Palmer against the decision of Wiltshire Council.
- The development to which the planning obligation relates is Removal of Section 106 Agreement in relation to N/05/03043/COU.
- The planning obligation, dated 7 December 2006, was made between North Wiltshire District Council and Mr and Mrs C H & S L Palmer.
- The application Ref PL/2023/09361, dated 27 October 2023, was refused by notice dated 11 January 2024.
- The application sought to have the planning obligation discharged.

Decision

1. The appeal is allowed. The planning obligation, dated 7 December 2006, made between North Wiltshire District Council and Mr and Mrs C H & S L Palmer, no longer serves a useful purpose and is discharged.

Background and Main Issues

2. Planning permission[1] was granted for a change of use of existing equestrian use to part commercial and conversion of redundant adjacent building to grooms accommodation in 2006. In association with this permission, a legal agreement under section 106 of the Town and Country Planning Act 1990 (the s106 Agreement) was made. This prevents the sale or lease or otherwise disposal of the groom's accommodation unless it includes the main house, Field Farm House and vice versa. This effectively links the two properties as a single planning unit.

3. The application has been made under Section 106A of the Town and Country Planning Act 1990 to enable the discharge of the planning obligations set out in the s106 agreement dated 7 December 2006. Modifications have not been sought. Therefore, the main issue in this appeal is whether the planning obligation provided in the S106 Agreement no longer serves a useful purpose.

Reasons

4. The appeal site is a smallholding, comprising three established C3 dwellings, equestrian stables and the groomsman's quarters, the property to which this appeal relates. The site is located outside any settlement, as defined by the Wiltshire Core Strategy 2015 (WCS). It is therefore in the countryside for

[1] Council Ref: N/05/03043/COU

planning purposes where policy seeks to restrict growth. It is also in an isolated location due to its distance from settlements.

5. The original permission, when granted for this residential self-contained unit, was based on the need for staff accommodation at the property linked to the equestrian operations. However, no planning condition was imposed restricting occupancy of the dwelling to persons employed at the property or in association with the equestrian operations. The only limitation was that secured through the planning obligation which prevents the severance of the appeal property from the main house.

6. There is no information available from the Council's records to explain the reason why the two properties were linked together when permission was granted in 2006. The Council, in refusing to discharge the planning obligation has stated a concern about the location of the dwelling in the countryside and that it does not represent sustainable development. In its statement of case, the Council expands on this, raising concerns about the poor quality of the unit, particularly the small size of the outdoor amenity space.

7. The Council has acknowledged that the property has been occupied as a self-contained residential unit, separate from the main dwelling since 2007 and without any involvement with the keeping of horses. Whether or not this is a technical breach of the S106 Agreement is not a matter for me to determine as part of this appeal. Nevertheless, I accept that the building has been leased and occupied as a self-contained unit. The planning obligation continues to be enforceable.

8. The discharge of the planning obligation would, in effect, grant consent for an independent and self-contained dwelling in the countryside. Should such a proposal come forward today, it would be considered in relation to Core Policy 48 of the WCS which relates to supporting rural life. The policy permits dwellings required to meet the employment needs of rural areas, associated with accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work. The self-contained unit was originally provided to enable a rural worker to live at the site. However, it has been established that its occupation is no longer required in connection with this.

9. The policy additionally allows for the conversion or re-use of rural buildings. It sets out that a residential use, in line with national policy, may be appropriate where there is clear evidence that their re-use for employment, tourism, cultural and community uses are not practical propositions. The requirement to demonstrate alternative uses goes beyond that set out within paragraph 84 of the National Planning Policy Framework (the Framework) which relates to rural housing and in this regard the policy is inconsistent. As such, I attribute moderate weight to this policy and any conflict with it and greater weight to the policies of the Framework.

10. Paragraph 84 sets out the approach to isolated dwellings in the countryside, and the specific circumstances that would enable such a development to occur. This includes if the development would reuse redundant or disused buildings and enhance its immediate setting.

11. The appeal building is currently used as a dwelling and is not redundant or disused. However, at the time it was converted, it appears from the description of development that it was a redundant building. This is aligned

with the policy approach advocated in paragraph 84. Given the passage of time, I am unable to reach a view as to whether the conversion enhanced the immediate setting of the building but I observed that the building as it is now has a neutral impact on its setting. For this reason, I find the proposal broadly accords with the principles of that criterion of paragraph 84.

12. The appeal building is a single-storey building. It has its own entrance and, internally, there is a living area with a kitchen, a small separate bathroom and a bedroom. A back door leads to a very small garden area. A wire fence encloses it from an area of hardstanding/driveway serving the wider site and adjacent stables. The outdoor amenity space is not high quality. Notwithstanding this, the accommodation must have been considered to provide suitable living conditions when permission was granted in 2006. The property provides for the day-to-day needs of occupants without reliance on the main house. On this basis, and given that living conditions did not form the Council's reason for refusing the discharge of the planning obligation, I see no reason to conclude that the property is now not suitable to be used as accommodation unless it is linked to Field Farm House.

13. The property provides the basic facilities required for day-to-day living without reliance on the main house. I accept that used as it currently is, albeit in breach of the planning obligation, trips to and from the site by private vehicles are generated. In the event that the s106 agreement were to be discharged and the appeal property were to become an independent dwelling, there would be little, if any, change to the number of trips associated with the property. The reliance on private motorised transport to access the services and facilities to meet day-to-day needs causes some planning harm but the degree of harm is likely to be similar whether the appeal succeeds or fails.

14. There would be no physical changes to the site should the planning obligation be discharged and therefore little effect on character or appearance. This is a neutral factor.

15. Planning permission[2] was granted for the conversion of stables at the property to two holiday lets. These were later granted a Certificate of Lawfulness[3] in 2016 for the continued independent residential use of the buildings. The Council has stated that the conditions which restricted the use of these buildings were ignored until such time as the planning system allowed them to remove those conditions, thus 'gaming the system'. However, the circumstances of these buildings are not the same as they were not subject to a planning obligation. In any event, this is not a matter before me. I am required to consider whether the planning obligation in respect of the appeal building no longer serves a useful purpose and I have done so, considering the planning merits of this.

16. The Council has suggested that the s106 agreement could be replaced by a condition restricting occupancy of the appeal property other than for purposes ancillary to the residential use of the main dwelling. However, there is no mechanism to impose a condition on the original planning permission and I have determined that the appeal proposal is acceptable in any event.

[2] Council Ref: N/05/01055/COU
[3] Council Ref: 16/07504/CLE

17. The discharge of the planning obligation would regularise an independent dwelling in the countryside, contrary to Core Policy 48 of the WCS. However, I attribute moderate weight to that policy due to its inconsistency with the Framework. I have found the proposal would broadly align with Framework policy in respect of rural housing. Moreover, the appeal property effectively functions as a separate market dwelling already.

18. In conclusion, taking all these factors into account, I conclude the s106 Agreement in linking these properties no longer serves a useful purpose. It should now be discharged. Accordingly, the appeal is allowed.

Rachael Pipkin

INSPECTOR