

Application Number: 15/11455 Variation / Removal of Condition

Site: BUTT LAWN FARM, FROG LANE, FORDINGBRIDGE SP6 1BN

Development: Variation of Condition 3 of Planning Permission 08/92978 to allow temporary residential accommodation whilst not in holiday use between 1st October and 31st March in any year

Applicant: Mr Hariento

Target Date: 08/12/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council View and contrary to policy in (part)

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Countryside outside the New Forest
Front of the site adjacent to Frog Lane is located in Flood Zone 2/3
Right of Way

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
4. Economy
7. The countryside

Policies

CS1: Sustainable development principles
CS2: Design quality
CS6: Flood risk
CS10: The spatial strategy
CS19: Tourism
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM20: Residential development in the countryside
DM13: Tourism and visitor facilities

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Fordingbridge Town Design Statement
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

Use as holiday let (92978) Refused. Appeal allowed in 2008

7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council: Recommend Refusal as the proposal could set a precedent for other holiday lets to apply for similar variations which would result in an overall reduction in Tourism stock and availability.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer:: No highway objections
- 9.2 Hampshire County Council Rights of Way Officer: No comment received to date
- 9.3 Employment and Town Manager: happy to support the recommendation

10 REPRESENTATIONS RECEIVED

1 letter of objection concerned that the principle reason for allowing the conversion of a stable block to holiday let was to accord with Policy CS19. The New Forest is a popular tourist destination 12 months of the year, therefore allowing the property to be used as temporary accommodation between 1st October to 31st March would reduce the stock of self catering accommodation for 6 months.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The site relates to a former stable building which was converted into a holiday let known as Butt Lawn Farm following an appeal in 2009 under reference 92978. The existing building is situated along the western side of Frog Lane, which is an unmade road and public footpath to the south edge of Fordingbridge. There is a small number of residential properties along the northern section of Frog Lane, but beyond the site, the lane leads to a group of farm buildings. The building is of solid construction, being brick built with a slate roof, and has its own curtilage, with open fields beyond. In front of the building, within the site, there is a car parking area laid to gravel. There are open fields and paddocks to the north and west of the building and immediately to the east is a residential dwelling known as 'The Mallards'.
- 14.2 This planning application seeks the variation of condition 3 of planning permission 92978 to allow use as temporary residential accommodation whilst not in holiday use, between 1st October and 31st March in any year. The purpose of the application is to avoid the building remaining unoccupied for the winter and, for the rest of the year, the building would be available for holiday let use. There are no proposed changes to the appearance of the building or changes to the layout of the site.
- 14.3 When planning permission was granted to convert the stable into a holiday let use under reference 92978, a number of planning conditions were imposed, including Condition 3 which states that:

'The premises the subject of this permission shall only be used for holiday accommodation and shall not be occupied as a person's sole or main place of residence'

- 14.4 In support of the planning application to vary the condition, it is stated that there is not a constant demand for holiday let accommodation throughout the year, particularly over the winter. One of the main reasons for this is because the site lies on the rural fringes of the town of Fordingbridge and there is little demand other than during the summer. The applicant is seeking to make sure holiday let use is supported by a less restrictive nature of occupation at other times. The applicant wishes to maximise the use of the building without it becoming a permanent residential dwelling. The applicant also points out that there are no time restrictions on the period of occupation at present.
- 14.5 The application seeks to vary the condition to read as follows:
- The premises the subject of this permission shall only be used for holiday accommodation other than from 1st October of any year to 31 March the following year when it could also be occupied by persons (and any dependents of such persons) using it for temporary residential accommodation whilst not on holiday and shall not otherwise be occupied as a person's sole or main place of residence.*
- 14.6 The main issues in this case are whether the variation of the condition would be harmful in terms of the creation of a new dwelling, loss of a holiday let or an adverse impact on the character of the area.
- 14.7 In assessing this application and whether it would be acceptable to vary the condition, it is important to establish the policy position. Policy CS19 of the Core Strategy for the New Forest District outside of the National Park is applicable and supports local tourism. The policy aims to extend the length of stay of tourists in the area. There is thus a policy concern with the creation of new dwellings and support for tourist accommodation.
- 14.8 Policy DM13 of the Local Plan Part 2 relates to tourism and visitor facilities and identifies the circumstances in which new tourist/visitor related developments may take place, but also enables existing businesses to adapt and change. It seeks to secure the continued contribution to the tourism economy of buildings in a tourist-related use. The policy goes on to state that throughout the Plan area, where an existing hotel or guest house accommodation use is not viable, the building should be used for an alternative leisure/visitor-based business use which would continue to contribute to the local economy.
- 14.9 There has also been significant changes in the Town and Country Planning (General Permitted Development) Order 2005 in which several uses including agricultural buildings, offices, retail, specified sui generis uses and storage uses are permitted to change to residential uses subject to a Prior Approval Application and a set of criteria that they must comply with. While this does not extend to holiday let accommodation, it does show the Governments' stance that greater flexibility should apply to the use of existing buildings to maximise their potential.
- 14.10 In assessing this case against policy, the proposal does not seek to create a permanent dwelling. The result of varying the condition would be to create an unusual hybrid, whereby a person could occupy the building from the 1st October and 31st March, but thereafter it would either have to stand empty or be let as holiday accommodation. There are no specific policies relating to such a hybrid. It is clear that for roughly 5-7 months a year, the building may not be in demand for

holiday use and accordingly an objection on the grounds that the proposal would result in a permanent dwelling cannot be substantiated.

- 14.11 However, the proposal would limit the availability of this holiday unit throughout the year and reduce the stock of self catering accommodation which would not fully accord with Policies CS19 and DM13. Indeed, it certainly would not be encouraging tourism or maintaining and enhancing existing facilities and accordingly the proposal does not fully meet the objectives of the policy.
- 14.12 It is considered unfortunate to reduce the availability of the building for holiday let accommodation for half the year, however, there is a strong argument to maximise the use of existing buildings rather than buildings being empty. Indeed, this is a main objective of Government to enable greater flexibility between uses so that empty buildings are used, which would benefit the economy and provide much needed residential accommodation. Indeed, the proposal could provide a short term tenancy for people that are either working that need short term accommodation or for people that require residential accommodation for a short period of time.
- 14.13 If the building was permitted to be used in this way, it would not create a dangerous precedent and each application should be judged on its own individual merits. Moreover, a further relaxation of the condition for a longer period of time would not likely to be viewed favourably because the period between Easter and the end of September is the main holiday period and any greater relaxation would fail to comply with policy. Accordingly, on balance, it is considered that the variation of the condition would not have any adverse impact on the character of the area and it would essentially maximise the use of the building which is considered to be a more sustainable form of development.
- 14.14 With regard to other matters, it is considered that the variation of the condition would not increase the noise and disturbance to the neighbouring residential properties or lead to any adverse impact on the living conditions of the adjoining and nearby residential properties. Concerning public highway safety matters, the Highway Authority does not raise any objections and considers that the proposal would not in itself result in any significant increase in generated trips.
- 14.15 In conclusion, the proposal does not fully accord with local plan policy which seeks to retain existing tourism uses, however, in balancing out the issues, it is considered that the use of the building would be maximised if the condition is varied and would also retain a holiday let use for half the year, which would be a more acceptable form of development. Accordingly, the application is recommended for approval.
- 14.16 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The premises the subject of this permission shall only be used for holiday accommodation other than from 1st October of any year to 31 March the following year when it could also be occupied by persons (and any dependents of such persons) using it for temporary residential accommodation whilst not on holiday and shall not otherwise be occupied as a persons' sole or main place of residence.

Reason: To ensure the building is not used as a permanent dwelling which would be contrary to Policy DM20 of Local Plan Part 2 Sites of Development Management Document.

2. The development permitted shall be carried out in accordance with the following approved plans: 10 and 11.

Reason: To ensure satisfactory provision of the development.

Notes for inclusion on certificate:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

Major Team
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DISTRICT COUNCIL

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**Planning Development
Control Committee**
January 2016

Item No: 3k
Butt Lawn Farm
Frog Lane
Fordingbridge
15/11455
SU1413

Scale 1:2500

N.B. If printing this plan from
the internet, it will not be to
scale.

