

Elizabeth Lawrence Ltd

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Dear Mr Davis,

Planning Application AL/73/13
Existing barn, Sack lane Dairy, Lidsey

No doubt you will recall that you advised some time ago that you would not determine the above application until the Evergreen Appeal decision was determined, as that decision could influence your decision.

As discussed yesterday that decision has now been issued and whilst allowed it is severely flawed and is being legally challenged. Just a few of the errors in it include:

The Inspector failed to properly assess whether policy DEV 2 of the Local Plan is in accordance with the NPPF in relation to the Appeal proposal. In particular she has failed to assess it against paragraphs 22 and 51 of the NPPF. (In relation to paragraph 51, policy DEV 2 makes it clear that in relation to that policy holiday accommodation should be considered as commercial development).

The Inspector has ignored paragraph 49 of the NPPF which requires all policies which restrict housing development to be considered out of date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. A recent appeal decision in Arun by a senior Inspector makes this very clear. See BN/16/12. The Inspector failed to do this.

The Inspector has failed to consider the proposal against paragraph 55 of the NPPF properly. This specifically states that housing in the rural area is allowed where it makes use of a redundant or disused building and would lead to an enhancement of the setting. In this instance the Inspector does not dispute that the holiday use is redundant for various reasons. In addition, the only reason the building is not vacant is because the Council has delayed in taking legal action against the current young couple who occupy it. If left empty the building and its grounds will deteriorate and have a negative impact on the setting.

In relation to the marketing of the property, it was placed with a commercial agent and details sent to all clients registered with the agent. This will have included persons looking for offices and other business premises. The Inspector has either ignored or failed to grasp this, but has acknowledged that the holiday let is not viable. DEV2 only requires the property to be marketed, which it was.

In relation to accessibility a small dwelling generates less vehicle movements than offices and other commercial businesses. Irrespective of this, the NPPF makes it clear that rural housing should be supported in existing buildings.

The Inspector has failed to properly balance the three dimensions of sustainable development, which is evident in her failure to acknowledge certain parts of the NPPF. Overall the use of a non viable holiday let cottage for housing would make efficient use of existing resources, would be visually acceptable and would prevent the building from falling into visual decline. It would also provide a small home, within a cluster of existing dwellings on the outskirts of Bognor Regis. It is a highly sustainable proposal in accordance with the NPPF and logically.

Finally, Sections 72 and 73 of the Act do not allow for new conditions to be imposed, where they would fundamentally change the nature of a development. To change a holiday let cottage to an agricultural workers cottage amounts to a fundamental change and is simply unlawful. Irrespective of this absolutely no evidence of a need for agricultural workers dwellings in this location was submitted at the Hearing.

The Inspector failed to refer to Section 73 or Circular 11/95, which should have been her starting point. A number of errors flowed from this.

This list of failings is not exhaustive, but demonstrates how unsound the decision is. I am sure if you ask Delwyn Jones, he will confirm the contents of this letter.

In conclusion, solicitors and chambers have already been instructed to challenge this decision.

I ask that these comments are taken into consideration and ask that Mr Vick is informed of this challenge as he is dealing with the contravention at Evergreen Cottage.

Yours sincerely,

Elizabeth Lawrence

Chartered Town Planner