
Appeal Decision

Site visit made on 25 August 2016

by R J Maile BSc FRICS

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

Decision date: 20 September 2016

Appeal Ref: APP/X2220/W/16/3148811

Denne Court Farm, Woodnesborough, Sandwich, Kent, CT13 0EG.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Nicholas Kenton against the decision of Dover District Council.
- The application ref: DOV/15/00336, dated 8 April 2015, was approved on 4 December 2015 and planning permission was granted, subject to conditions.
- The development permitted is: "Change of use, conversion, partial demolition and extension of agricultural building to provide 3 holiday lets, erection of 1 detached and a pair of semi-detached dwellings, conversion of shed to garage and associated parking and landscaping (existing sheds and stables to be demolished)."
- The conditions in dispute are Nos. 5, 20 and 21, which state that:
 - 5. Prior to the commencement of the development hereby approved, details of secure, covered bicycle storage for 18 bicycles shall be submitted to and approved in writing by the local planning authority. The approved bicycle storage shall be completed prior to the first occupation of the development and shall thereafter be retained solely for that purpose.
 - 20. An up to date written register shall be kept of the main or home address of any guests using each holiday let and the register shall be made available for inspection by the local planning authority on request at any reasonable hour.
 - 21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no extension, enlargement or other alteration (including additional windows) of the buildings hereby permitted shall be carried out and no building, container or means of enclosure shall be provided.
- The reasons given for the conditions are:
 - 5. To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety and to maximise sustainable transport solutions.
 - 20. To enable the local planning authority to monitor the occupation of the holiday lets to ensure that the establishment of a permanent residential use of the site, which would be contrary to Development Plan policies and detrimental to the character of the area, does not take place.
 - 21. To enable the local planning authority to regulate and control the development of land and to protect the visual amenities of the locality and the amenities of nearby residential properties.

Decision

1. The appeal is allowed in part and the planning permission ref: DOV/15/00336 for change of use, conversion, partial demolition and extension of agricultural building to provide 3 holiday lets, erection of 1 detached and a pair of semi-
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detached dwellings, conversion of shed to garage and associated parking and landscaping (existing sheds and stables to be demolished) at Denne Court Farm, Woodnesborough, Sandwich, Kent, CT13 0EG, granted on 4 December 2015 by Dover District Council is varied by deleting Condition No. 5 and substituting for it the following new condition:

5. Prior to the commencement of the development hereby approved details of secure, covered bicycle storage for 10 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle storage shall be completed before the development is first occupied and shall thereafter be retained solely for that purpose.

Main Issue

2. The main issue in this case is whether the disputed conditions are reasonable and necessary and meet the tests set out at paragraph 206 of the Framework¹ and advice contained in the Government's Planning Practice Guidance relating to the use of planning conditions.

Reasons

a) Condition 5:

3. Condition 5 of the planning permission was imposed following consultation with Kent County Council as Highway Authority. Their response dated 19 May 2015 recommended a total of five conditions, including the permanent provision of a minimum of one secure covered cycle parking space per bedroom prior to the use of the site commencing. This requirement is contained in the Kent County Council Guidance Note SPG 4 (Vehicle Parking Standards), which in turn is referred to within Policy DM13 of the Core Strategy².
4. I acknowledge the sustainability benefits of providing secure bicycle storage to serve the development and that the requirement of one covered cycle space per bedroom is a countywide standard for all new housing. Nevertheless, it is necessary in the application of such standards to have regard to the particular circumstances of each case – in this instance the somewhat isolated location of the appeal site, the narrow winding nature of Selson Lane and the fact that three of the units are solely for holiday letting.
5. Paragraph 59 of the Framework also cautions against unnecessarily prescriptive design policies. Rather, such policies should "... concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."
6. The provision of one covered cycle space per bedroom would appear excessive in this case and I have concluded, having regard to the location and form of the development, that two cycle spaces per dwelling, excluding Unit 2 which has a garage suitable for such purposes, would be more appropriate. Such provision would also meet the sustainable transport solutions for the appeal site which the Council and County Council seek to achieve.

¹ The National Planning Policy Framework.

² Dover District Local Development Framework: Core Strategy (February 2010).

7. My decision to reduce the requirement for secure cycle storage reflects the open nature of the site, whereby any additional structures would be visible within the landscape. It also takes account of the sub-standard nature of the approach roads and of the fact that three of the units are holiday lets.
8. For all of these reasons I find that the requirement to provide secure, covered storage facilities for 18 bicycles is neither reasonable nor necessary. As such, Condition 5 as imposed by the Council fails to meet all of the six tests set out at paragraph 206 of the Framework and advice in the Government's Planning Practice Guidance relating to the use of planning conditions.

b) Condition 20:

9. This condition requires an up to date written register to be kept of the main or home address of any guests using each holiday let and that the register shall be made available for inspection by the Local Planning Authority on request at any reasonable hour. It would ensure that the use of the three units as holiday lets can be monitored, if necessary.
10. The appellant objects to Condition 20 on the grounds that it is unenforceable and constitutes a breach of the Data Protection Act 1998.
11. It is not unusual for home addresses to be provided by guests when booking holiday accommodation and it does not seem to me to be onerous for an operator to keep a register, as required by the condition.
12. Furthermore, given that this information is for the benefit of the Local Planning Authority only - and provided it is kept safe by the appellant and for no longer than is absolutely necessary - I am satisfied that Condition 20 can be complied with and enforced in a manner that does not breach the Data Protection Act 1998.
13. I therefore find that Condition 20 is enforceable and that it is both reasonable and necessary in order to ensure that Units 4, 5 and 6 are occupied as holiday lets only.

c) Condition 21:

14. Condition 21 removes certain Permitted Development rights as specified in the condition.
15. The appeal site is within a sensitive, countryside location and is visible from a number of directions. The Council granted planning permission for the scheme given the high standard of the architectural design of the individual buildings and, presumably, the layout of the development, which incorporates large areas of open space and retention of the pond.
16. I acknowledge that the site is screened from the adjacent farmhouse, which is a listed building. Nevertheless, my concerns relate more to the visual impact of additional buildings and alterations upon the surrounding countryside.
17. The removal of Permitted Development rights as specified in Condition 21 will not prevent the appellant or his successors from making planning applications for any necessary alterations, outbuildings or other matters covered by the Order.

18. Accordingly, I find that Condition 21 is both reasonable and necessary having regard to the need to protect the surrounding countryside from inappropriate development.

Overall Finding and Conclusion

19. For the reasons given above I consider that there is some merit in reducing the requirement for secure bicycle storage within the development (Condition 5). However, I have found that Conditions 20 and 21 meet the tests as set out at paragraph 206 of the Framework and advice contained in the Government's Planning Practice Guidance. As such, those conditions should remain in full force and effect.
20. I therefore conclude that the appeal should be allowed in part, but only insofar as the wording of Condition 5 is amended as set out in paragraph 1 above.

R. J. Maile

INSPECTOR