
Appeal Decision

Site visit made on 28 November 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 2 December 2016

Appeal Ref: APP/U1430/W/16/3155386

Fox Hole Farm, Kane Hythe Road, Netherfield, East Sussex TN33 9QU

- 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 & Mrs D Stewart against the decision of Rother District Council.
 - The application Ref RR/2015/2981/P, dated 2 December 2015, was approved on 13 May 2016 and planning permission was granted subject to conditions.
 - The development permitted is the conversion of garage building and existing accommodation to form ancillary accommodation for family and friends of occupiers of Fox Hole Farm.
 - The condition in dispute is No 3 which states that: The annexe accommodation hereby permitted shall not be occupied until improved footpath signs showing the shared use of the track have been provided in accordance with details and plans to be submitted to and approved in writing by the local planning authority.
 - The reason given for the condition is: The change of use will result in the increased use of the access track, which is also a public footpath. The demarcation of the public footpath will safeguard this important recreational facility in accordance with Policy CO3(i) of the Rother District Council Local Plan (2011-2028) Core Strategy.
-

Decision

1. The appeal is allowed and the planning permission Ref RR/2015/2981/P, for the conversion of garage building and existing accommodation to form ancillary accommodation for family and friends of occupiers of Fox Hole Farm at Fox Hole Farm, Kane Hythe Road, Netherfield, East Sussex TN33 9QU, granted on 13 May 2016 by Rother District Council, is varied by deleting condition No 3.

Main Issue

2. The main issue is whether the condition is reasonable or necessary in the interests of the safety of users of the public footpath.

Reasons

3. Fox Hole Farm is an attractive Grade II listed building set in substantial grounds at the end of a single lane track about 290 m in length from the B2096. Two other residential properties nearby are served by the same track.
4. In 2010 planning permission was granted for a large garage/storage building with workshop/office above within the grounds of Fox Hole Farm. In May 2016 permission was given for the conversion of this building to form ancillary accommodation for family and friends of the occupiers. This was subject to certain conditions, one of which is the subject of this appeal.

5. The first 100 m or so of the access lane where it leaves the B2096 is used as a public footpath. The disputed condition requires improved signage of this footpath before occupation of the ancillary accommodation on the grounds that this will result in increased traffic using the lane and hence extra danger to footpath users.
6. At the junction with the B2096 the footpath is only marked by an inconspicuous low level concrete marker a few metres along the lane. About 100 m down the lane, where the footpath enters a field gate to one side, it is only marked by yellow arrows fixed to a post.
7. Certainly the footpath would benefit from improved signage so that users can follow it more easily. However, the lane is straight, well surfaced, has good visibility from end to end and is only lightly trafficked as it serves just three residential properties. There is also an informal 5 mph speed limit sign. In these circumstances with responsible driving there is only limited danger to footpath users.
8. The conversion of the existing building to ancillary accommodation for family and friends would not involve full residential use by an additional household, only extra accommodation for the existing occupiers of the property and their visitors. As such it would only generate limited additional traffic along the lane and consequently only limited extra danger to footpath users. In addition, family visitors are likely to be aware of the existence of the footpath and thus likely to drive carefully along the lane. The original proposal, for use as holiday accommodation, would have resulted in unfamiliar drivers using the lane but this is no longer the case.
9. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, and reasonable in all other respects. In this instance the requirement to provide improved footpath signage fails these tests and the condition should not therefore be imposed.
10. Removing the condition would not materially conflict with Policy CO3 of the Rother Local Plan Core Strategy 2014 which seeks to safeguard existing recreation facilities from development.
11. Having regard to the above, the appeal should be allowed.

David Reed

INSPECTOR