
Appeal Decision

Site visit made on 10 January 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 19th January 2017

Appeal Ref: APP/U1430/W/16/3160183

Bantham Farm, London Road, Hurst Green, East Sussex TN19 7QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Messrs Nigel and Nick Watts against the decision of Rother District Council.
 - The application Ref RR/2016/329/P, dated 1 February 2016, was refused by notice dated 29 March 2016.
 - The development proposed is change of use from B1 Art Studio to living accommodation, no external alteration is required.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to a stable building granted planning permission under Ref: RR/2007/3367/P subject to a series of conditions, one of which limited its use to private equestrian/recreational purposes only and not for any commercial riding, livery use or other business use. A series of applications seeking to change the use of part of the building since its erection have been refused by the Council¹, and where subsequent appeals were lodged, they were either withdrawn or dismissed².
3. In August 2013, the appellant served notice under Class M of the General Permitted Development Order (GPDO) 1995 of an intention to change the use of two buildings on the site, including that part of the stable block that contained ancillary uses, to Use Class B1. After much correspondence on the matter, the Council³ informed the appellant that permitted development rights could not be legitimately claimed on a building that was only originally permitted for private recreational equestrian use. Such rights only pertain to buildings that had been used solely for agricultural purposes since 3 July 2012.
4. Notwithstanding the description of the proposal on the application form, there is therefore no evidence before me to suggest that the stable block has any authorised use other than for private equestrian purposes. I have determined the appeal on the basis that it seeks a change of use of part of the building from equestrian use to a residential dwelling.

¹ RR/2010/357/O, RR/2010/2777/P, RR/2011/1992/P, RR/2012/1140/P and RR2013/87/P

² APP/U1430/X/10/2127091, APP/U1430/A/11/2164676 and APP/U1430/A/12/2182037

³ Letter from Rother District Council dated 8 November 2013, ref PE/00618/2013

Main Issue

5. The main issue is the effect of the proposed change of use on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Background

6. The appeal site is accessed via an unmade track leading from a shared driveway to the east of the A21 between Flimwell and Hurst Green. It is in a fairly isolated location, although there are other scattered properties in the vicinity. The existing buildings sit within and are surrounded by the open, undeveloped fields and woodland that form the landscape of the AONB.
7. The stable block is an 'L' shaped building and comprises two distinct elements. Firstly, there are three stables and a storage area. The second section is for ancillary uses associated with the care and keeping of horses. This part of the building has been altered internally since the original permission with the insertion of an staircase, various windows and some internal partitioning. A plan showing the internal layout formed part of the amendments approved under planning permission, Ref: RR/2011/895P. This plan shows that, in addition to the existing shower room, the ground floor of the building would primarily be used as a workshop and storage area, while the upper floor was intended to be used as a rest area and tack room.
8. On my site visit I saw that the area on the approved plan shown for hay storage on the ground floor was effectively a kitchen and office. The kitchen area contained a range of cupboards and included a sink, fridge, microwave and portable stove, along with a small dining table. The office not only had a desk, chair and computer screen but appeared to have a sofa/bed on which it would be possible to sleep. The remainder of the ground floor, which is at a lower level and approached via a short flight of stairs, contained numerous pieces of furniture, including a piano, tables, chairs and bookshelves. The upper floor has two areas at different levels. The larger of the two contained paintings and art materials, while the smaller one had easy chairs and a table. The proposal before me seeks to use the ground floor as a kitchen/dining and living area and the upper floor as two sleeping areas. This arrangement would amount to a new dwelling.

Character and appearance

9. Policy RA3 (iii) of the Core Strategy⁴ states that creation of new dwellings in the countryside will only be allowed in extremely limited circumstances. In order to be acceptable any proposal must demonstrate a clear functional need associated with farming or another land-based industry. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
10. In April 2014, planning permission was granted (Ref: RR/2014/2533/P) for the replacement of another building on the site, subject to a condition that it would be solely used as an art studio. Subsequent applications to remove this

⁴ Rother District Council Local Plan Core Strategy, adopted September 2014

restriction on its use and re-locate the building elsewhere on the land were refused and dismissed on appeal⁵. However, this permission has yet to be implemented and therefore no authorised art studio is currently operating on the site. Neither was there any evidence to suggest that the appellants are operating an art business from the site.

11. The appellants contend that the conversion of part of the stable block into residential use would support the art studio B1 Use, which would be their principal place of work. However, there is no essential need for an art studio to be located in the countryside. Operating an art-based business cannot be considered to be a land-based industry and an artist cannot be considered to be a rural worker, even if they happen to be working in a rural area. If and when the permitted art studio is erected, its use would therefore not give rise to any essential functional need for anyone working there to live near to their place of work. It therefore does not meet any of the criteria to justify the creation of a new dwelling in the countryside.
12. I accept that the change of use would not, in and of itself, materially change the appearance of the building. However, it would result in a fundamental change to its character, and not only of the building, but also of its surroundings. A building that is someone's home is materially different in character to one that is used in connection with the care of horses. Even if a proliferation of external domestic paraphernalia could be limited by the use of conditions, the reality is that the site would be occupied and lit more frequently and more intensively than would be the case when used for private equestrian purposes. This combination of changes would harm the character and appearance of the AONB, to which the Framework affords the highest status of protection in relation to its landscape and scenic beauty.
13. I therefore conclude that the proposed change of use would be unacceptably harmful to the character and appearance of the AONB, contrary to Policy RA3 of the Core Strategy. This policy seeks to strictly control residential development in the countryside, unless there is a demonstrated functional need for a countryside location. It would also conflict with Policies OSS4 and EN1 of the Core Strategy, which seek to protect the landscape character, settlement pattern and tranquillity of the High Weald AONB. In addition, the proposal would be contrary to the advice of the Framework, which seeks to avoid isolated new dwellings in the countryside, and advises that great weight should be given to the protection of the landscape and scenic beauty of AONBs.

Other Matters

14. My attention has been drawn to another application for a change of use of the stable block, Ref: RR/2016/1000/P. This was refused by the Council on 20 July 2016. However, the issues raised by that proposal have no bearing on my determination of the appeal before me, which I have assessed on its individual merits, in the light of current national and local planning policy. I note the appellant's reference in his appeal statement to a Section 106 agreement. However, no agreement was submitted with the appeal before me and I am therefore unable to take it into account in my assessment of the appeal proposal.

⁵ APP/U1430/A/14/2218744 and APP/U1430/W/14/2227696.

15. Since this application was determined the Council has accepted that it cannot demonstrate a five-year supply of deliverable housing sites. Therefore, in accordance with paragraph 49 of the Framework, its policies relating to housing supply must be considered out-of-date. However, in this case the presumption in favour of sustainable development does not apply because footnote 9 of paragraph 14 indicates that development should be restricted in designated AONBs. Consequently, there are no material considerations that outweigh the conflict with the development plan.
16. Insofar as it relates to the planning issues in this appeal, I have had regard to the extensive correspondence between the appellants and the Council regarding various proposals at Bantham Farm. However, concern about the way in which this application was dealt with by the Council is not a matter for me to consider in the context of a Section 78 appeal.

Conclusion

17. For the reasons set out above, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR