
Appeal Decision

Site visit made on 22 May 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 22nd June 2017

Appeal Ref: APP/U1430/W/16/3166322

Land at Dens Wood, Kent Lane, Brightling, East Sussex TN32 5HU.

- 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 Mr Kevin Hatcher against the decision of Rother District Council.
 - The application Ref RR/2016/957/P, dated 31 March 2016, was refused by notice dated 31 May 2016.
 - The development proposed is a steel framed agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for a steel framed agricultural building at land at Dens Wood, Kent Lane, Brightling, East Sussex TN32 5HU in accordance with the terms of the application, Ref RR/2016/957/P, dated 31 March 2016, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. I have taken the site address and description of development from the Appeal Form as these are more precise than the versions provided on the Application Form.
3. The site has a protracted planning history which includes several dismissed appeals. However, it is apparent that the design of the proposed building is significantly different to its predecessors. Therefore, whilst I have had regard to the previous decisions, I have determined the appeal before me purely on its own merits, in the light of the particular circumstances which apply in this case.
4. The Council's Statement includes an amended, unnumbered site layout plan dated 20 May 2016. This plan has not been submitted by the appellant with the appeal documentation. Consequently, I have considered the appeal on the basis of the plans that were before the Council when it made its decision.

Main Issue

5. This is the effect of the development upon the character and appearance of the area.

Reasons

6. The appeal site is a small parcel of land within the High Weald Area of Outstanding Natural Beauty (AONB). It is located immediately adjacent to Kent Lane, a quiet rural road to the east of Brightling. It forms part of a wider
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tract of land under the appellant's ownership which extends northwards away from Kent Lane towards an extensive belt of woodland. Whilst there are fleeting views of the site through the access, the main site frontage is largely enclosed by established landscaping which has been recently supplemented. Accordingly, there is little visual exposure of the site from the road. A public footpath (Brightling 19) traverses the field a short distance to the north of the appeal site. The wider area is unmistakably rural and comprises a patchwork of woodland and agricultural fields demarked by mature hedgerows. Although lightly settled, agricultural buildings of one form or another are not unusual features in the landscape.

7. The proposal seeks approval for a steel framed barn measuring 10m (length) x 7m (width) x 3.6m (height). Apart from a brickwork base, the walls would be clad in traditional timber boarding. The building would be used for stabling and storage in connection with the use of the surrounding land and would replace the existing field shelters which are the subject of enforcement action. The proposed barn would be sited on an area of hardstanding which has the benefit of a recent grant of planning permission¹.
8. Saved Policy CF5 of the "*Rother District Local Plan 2006*" (the LP) relates to specifically to new equestrian buildings and states that these will be permitted provided there would be no significant adverse effect on the landscape character of the area. In a similar vein, Policy OSS4 of the "*Rother Local Plan: Core Strategy 2014*" (the CS) seeks to ensure that development proposals respect and do not detract from the character and appearance of the locality. CS Policy RA3 supports new agricultural buildings provided they are necessary to support farming and other land based industries and are of an appropriate design.
9. The Council accept that the existing field shelters are lawful provided they are moved around regularly. It follows that the appellant could move the shelters from their current position to potentially more prominent locations to the north. I accept the Council's point that there are inherent practical difficulties attached to this. However, if I were to dismiss the appeal, necessity would dictate that these difficulties could be overcome. Thus in my view a viable fallback position exists and this must be afforded due weight. Notwithstanding the above, it is accepted by both parties that the continued use of the field shelters is not the optimum solution for the site.
10. The overall size of the proposed building is not excessive for its intended use and it would have a smaller footprint than the field shelters. There is no objection to the proposed design including materials and I see no reason to take a contrary view to the Council on these matters.
11. The barn would be sited in roughly the same location as the existing field shelters where views from Kent Lane are heavily screened. Its height at only 3.6m would be significantly lower than the previously dismissed schemes and would sit well below the existing frontage landscaping. I accept that the effectiveness of the screening along Kent Lane would inevitably wane in the winter months. Nonetheless, as the photographs attached to Appendix 3 of the Council's Statement demonstrate, once the new planting has taken hold, views of the barn would be limited to fleeting glimpses through gaps in the

¹ LPA Ref: RR/2016/955/P

landscaping. Accordingly, I find little to support the Council's assertion that the building would be highly visible from Kent Lane.

12. The building would undoubtedly be visible from the public footpath. However, given the footpath's alignment and local topography, it would be a fairly inconspicuous structure. Even if one were to turn and face the building directly, it would sit comfortably below the landscaping behind it and would not be prominent. Given the character of the wider area where the officer's report accepts there are several scattered agricultural buildings and stables, the building would not be incongruous. On the contrary, in those rare occasions when the building would be seen from public vantages, given its relatively modest proportions and traditional appearance, it would simply read as part of the rural landscape in which it is situated.
13. For the reasons set out above, I conclude that the barn would not harm the character and appearance of the countryside or the landscape and scenic beauty of the AONB. Accordingly there would be no conflict with Policies OSS4, RA3 and EN1 of the CS or Policy CF5 of the LP. Finally, the development would accord with the aims of paragraph 115 which advises that great weight should be given to conserving the landscape and scenic beauty of AONB's.

Conditions

14. The Council have suggested planning conditions which I have considered against the advice in the "*Planning Practice Guidance*". In some instances I have amended the wording of the conditions suggested by the Council in the interests of brevity.
15. Conditions specifying the approved plans and the extent of the permission are necessary to provide certainty. In view of the justification for the building, I have imposed a condition which removes permitted development rights from the land within the appellant's control. Accordingly, it is not necessary to specifically restrict the siting of equestrian jumps on the land.
16. The proposed materials are clearly set out in Section 9 of the Application Form. The Council's Committee Report acknowledges the same. There is no information before me to suggest these are unacceptable and consequently the suggested materials condition is unnecessary. I have found that the existing level of landscaping is more than adequate to screen the building, as such, the suggested landscaping condition is unnecessary. It is quite reasonable that the appellant should be able to install some form of external lighting not least for security purposes. To that end, the suggested lighting condition is unduly restrictive and I have therefore amended it to preclude the erection of floodlights.

Conclusion

17. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: KH05, KH:001 and KH002.
- 3) Notwithstanding the details shown on the approved plans. This permission only relates to the agricultural building and not to any hardstanding or other development.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings or other structures shall be installed or kept at the site or within the appellant's land as defined by the blue line on the approved site location plan.
- 5) No floodlighting shall be provided or installed at the site or within the appellant's land as defined by the blue line on the approved site location plan.