



Appeal Decision

Site visit made on 5 July 2017

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Decision date: 1 August 2017

Appeal Ref: APP/U1430/ W/17/3172617

**Boundary Farm, London Road, Hurst Green, Etchingham, 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 under S73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Ocego against the decision of Rother District Council
 - The application Ref RR/2016/2688/P, dated 13 October 2016, was refused by notice dated 1 March 2017.
 - The application sought planning permission for a replacement building with changes to the appearance of B1 business use confirmed under RR/2013/2418/P and MC/00600/2013 without complying with a condition attached to planning permission Ref RR/2014/810/P, dated 28 May 2014.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing no. BAS1365.07 Revision B dated November 2013 revised March 2014.
Drawing no. BAS1365.08 dated November 2013'*
 - The reason given for the condition is: *'For the avoidance of doubt and in the interests of proper planning as advised by Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306'*.
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Procedural Matters

1. The works to which the application relates have commenced but have not been completed. The application is accordingly in part against a refusal to carry out development without complying with the disputed condition and is in part retrospective under S73A of The Act.
2. I saw that the works which have been carried out differ in some respects both from the approved drawings and from the drawings that accompanied the application which is the subject of this appeal. This relates in particular to the positions of some doors and windows.
3. If the appeal were allowed based on the submitted drawings then some alterations would need to be made to the works that have been undertaken if the completed development were to be compliant with the new planning permission. In the alternative the Appellant would need to seek approval from the Council for the further amendments.

Planning History

4. The subject building is part of a complex of otherwise derelict former farmbuildings in open countryside within the High Weald Area of Outstanding Natural Beauty (the

AONB). Two planning applications to demolish the farmbuildings and to erect a dwelling have previously been refused (References RR/2009/2681/P & RR/2012/1031/P). An appeal in respect of the second refused application was dismissed.

5. In 2013 the Council received notice of a change of use of the original former agricultural building to use Class B1 business use as permitted development for a building of less than 150 sq m under Class M of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.
6. As associated external works were not covered by the permitted development a planning application (Ref RR/2013/2418/P) was required for works which included new doors and windows and a pitched roof. Subsequently in May 2014 planning permission was granted under RR/2014/810/P to demolish the original building and to erect a new replacement building of the same size and design including the alterations permitted under RR/2013/2418/P. That May 2014 permission was subject to the disputed condition. The Appellant is now seeking to amend the permitted design.

Decision

7. The appeal is allowed and planning permission is granted for a replacement building with changes to the appearance of B1 business use confirmed under RR/2013/2418/P and MC/00600/2013 at Boundary Farm, London Road, Hurst Green, Etchingham, East Sussex TN19 7QY in accordance with the application Ref RR/2016/2688/P, dated 13 October 2016, without complying with condition No 2 set out in planning permission RR/2014/810/P, granted on 28 May 2014 by Rother District Council, but otherwise subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No: BAS1365.09 Revision G

Drawing No: BAS1365.01 Revision A

Main Issues

8. The Council refused planning permission because: *'The revised building design by virtue of the location, style and number of doors and windows serving changes to the internal arrangement of the building creates a building with a domestic rather than a commercial appearance. The changes are not required to facilitate the Class B1 use of the building and the resultant building by reason of its domestic appearance is inappropriate and out of character within this isolated countryside location and harmful to the scenic landscape setting of the High Weald AONB, contrary to Policies OSS4(iii) RA2(viii), RA3(v) and EN1(i) of the Rother Local Plan Core Strategy [the LP] and paragraph 115 of the National Planning Policy Framework [the Framework].'*
9. The main issue is considered to be: what effect the amended design for the doors and windows would have on the character and appearance of the countryside and the High Weald Area of Outstanding Natural Beauty (AONB).

Policy Context

10. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The

development plan here includes the LP. LP Policy RA2(viii) seeks to generally conserve the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside. LP Policy RA3(v) seeks amongst other things to ensure that all development in the countryside is of an appropriate scale, and will not adversely impact on the landscape character of the countryside. LP Policy EN1(i) seeks amongst other things to protect the distinctive identified landscape character and settlement pattern of the AONB. LP Policy OSS4(iii) seeks that all development respects and does not detract from the character and appearance of the locality.

11. Paragraph 115 of the Framework is a material consideration and amongst other things accords great weight to conserving landscape and natural beauty in the AONB.

Reasons

Character and Appearance

12. The site is located about 2.5km north of Hurst Green village and about 0.5km east of London Road (A21) from which access is taken via a rough track that is shared with several other scattered properties in a variety of uses including residential. The site is part of a larger area of sloping land that is at present not cultivated and which slopes down to the east, beyond which is a belt of trees that would usually screen the site from a public footpath.
13. The surrounding landscape is typical of the High Weald AONB with a rolling landform in agricultural use and with pockets of woodland. With few hedgerows here the landscape does however appear more open and of a larger scale than some other parts of the AONB.
14. Restrictive local and national planning policies mean that it is unusual to see either new commercial buildings or domestic buildings in isolated locations in the open countryside of the AONB. However a B1 business use has previously been established for this location by permitted development rules. Moreover the Council has already approved the replacement of the original building by a new building. The development already permitted will in consequence introduce into the landscape what would appear to be a new commercial building.
15. The materials for the new building were not annotated on the approved drawings with which the disputed Condition 2 of the RR/2014/810/P permission requires compliance. Neither was there a planning condition specifying what materials should be used. Nevertheless a schedule of materials was included on the planning application form for that application. These were:
 - Walls Concrete Block Rendered
 - Roof Fibre Cement Slate
 - Windows Timber
 - Doors Timber
16. The approved drawings lack detail but appear to show some form of exposed external framing on the walls. However that is not referred to on the materials schedule and it is absent both from the building that has been constructed and from the most recent submitted drawings. The Council has not objected to the deletion of that framing or to the consequent change in appearance.

17. The building is substantially complete. It is of a simple rectangular plan similar to the original agricultural building except for the ridged roof which has increased its height and consequent visibility in the wider landscape. That ridged roof is now covered in green profile metal sheeting rather than the fibre cement slates indicated on the above planning application form. The Council has not objected to that change in roof material. Indeed that profiled metal roof is more characteristic of modern commercial and agricultural buildings than it is of domestic buildings. I saw similar roofs on modern buildings in the near vicinity. There has been a modest increase in the eaves height associated with a slightly raised ground floor. UPVC doors and windows have been installed in the painted and rendered elevations. The gables are now clad in horizontal timber strips.
18. In permitting the original scheme for a replacement building, and having had regard to the site history and the permitted development rights attached to the original building, the Council has accepted the location as suitable for a building of this form and with a ridged roof. The change in height and massing from that permitted scheme would not be obvious in the typically long views of the building in the landscape. Neither was planning permission refused because of the changes to the roof, to the eaves height, or to the materials used on the gable elevation. The building's shed-like form and its profiled metal roof make it more characteristic of commercial buildings or modern agricultural buildings. They are not now objected to by the Council.
19. The Council does object to the changes to the fenestration. The approved drawing No BAS1365.07 Revision B for planning permission ref RR/2014/810/P lacks detail but appears to indicate the following windows and doors. These were to be constructed in timber:
- West Elevation - 1 pair of apparently glazed double doors
 - East Elevation - 1 pair of apparently glazed double doors flanked by a single window of the same height + a further small window at high level
 - North Elevation - 1 solid door + 1 pair of full height windows + one small window
 - South Elevation - 1 pair of apparently glazed double doors flanked on each side by a single window of the same height + one separate pair of windows of the same height as the doors.
20. In the drawings accompanying the current application the arrangement of doors and windows has been changed on each elevation and the material has been changed to UPVC. What appear to be glazed double doors are to be included only on the western and southern elevations. Such doors are more commonly associated with domestic than with commercial buildings. Nevertheless similar doors were included on the approved drawings. In the current proposals there would be fewer such full height openings and there would be more small individual windows with raised cill heights. A single small window is also proposed in each timber clad gable to light what the plans describe as a first floor storage area.
21. UPVC is commonly used for windows in both commercial and domestic buildings. I consider that the smaller windows would be functional windows of a type that may be found in both domestic and small commercial buildings, particularly small office buildings but also workshops. In any case most views of the building would be from private land at a distance from which the fenestration details and material would not

be obvious. The change of roofing material has made the building's appearance more characteristic of agricultural or commercial buildings than of domestic architecture.

22. Whereas some of the revised fenestration is associated with changes to the internal layout, the revised internal layout remains functional for a B1 building. Neither do the internal changes affect the area's appearance and landscape character.
23. Overall, having regard to what has previously been approved, to the relatively modest external fenestration changes proposed and to their limited visibility in the landscape, I conclude that the changes to the fenestration would not materially alter the impact of the previously approved building on the character and appearance of the countryside surroundings or the AONB or conflict with the development plan or national policy in that regard.
24. The appeal should therefore be allowed and the disputed condition should accordingly be replaced by a condition which requires compliance instead with the revised drawings that have been submitted, both for the avoidance of doubt as to what is permitted and to protect the character and appearance of the area.

Robert Mellor

INSPECTOR