
Appeal Decision

Site visit made on 20 November 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 18th December 2017

Appeal Ref: APP/G2245/W/17/3181949

Vine Cottage, Grove Road, Penshurst TN11 8DU

- 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 & Mrs Westphal against the decision of Sevenoaks District Council.
 - The application Ref SE/17/00825/FUL, dated 13 March 2017, was refused by notice dated 7 June 2017.
 - The development proposed is the conversion of the existing barn to a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing barn to a dwelling at Vine Cottage, Grove Road, Penshurst TN11 8DU in accordance with the terms of the application Ref SE/17/00825/FUL, dated 13 March 2017, and the plans submitted with it, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Westphal against Sevenoaks District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt; and,
 - its effect on the protected trees proposed to be retained.

Reasons

4. The building the subject of this appeal appears as a modern, agricultural storage building, with a steel portal frame and sheet cladding, erected in connection with a vineyard which has since passed into separate ownership. The site lies in the countryside beyond any settlement boundary but within the High Weald Area of Outstanding Natural Beauty (AONB) and the Green Belt. The trees in the site are protected by a blanket Tree Preservation Order¹ (TPO).

¹ Tree Preservation Order 55/003/TPO/A1

Inappropriate development in the Green Belt

5. Paragraph 90 of the National Planning Policy Framework (the Framework) sets out that the re-use of buildings is not inappropriate in the Green Belt provided that they are of permanent and substantial construction, that they preserve its openness and do not conflict with the purposes of including land within it.
6. Policy GB7 of the Council's Allocations and Development Management Plan 2015 (ADMP) indicates that the re-use of a building will be permitted subject to two provisos. First, that it will not have a greater impact on the openness of the Green Belt than the present use, and not harm the character of the area. Second, that it is of permanent and substantial construction, and is capable of conversion without major re-construction that would detract from its original character.
7. The Council raises no objection on agricultural need and accepts that the building is of permanent and substantial construction, and that its conversion would preserve the openness of the Green Belt without conflicting with the purposes of including land within it. However, it concludes that the building requires major reconstruction and would not remain standing as existing during construction works and that the vast majority of the barn would be rebuilt. For these reasons, it says, the conversion would conflict with ADMP policy GB7.
8. The disputed element of the test in policy GB7 is whether there would be major or complete re-construction that would detract from the building's original character. The conversion would retain the portal frame and the ground slab. Additional, minor elements of steelwork to strengthen the building for its new use would not amount to major works. Similarly, though some form of support may be required to form the plinth, and the pads may need underpinning if their depths are affected by trees, the scale of these works would not be major. The roof and walls would be re-clad and new openings inserted. Given the amount of retained structure and that the roof and wall works involve recladding rather than rebuilding, the conversion would amount to alterations rather than major re-construction.
9. The form of the building would remain unchanged. The new openings would have a ribbon pattern on the long elevations; one end elevation would remain solid, and the other would be almost fully glazed. Their sizes and proportions would reflect the utilitarian character of the barn. Like the sheets of asbestos-cement roof panels, the replacement roof would be formed of sheets too, albeit in zinc with more widely placed seams. The vertically profiled cladding on the barn would be replaced by vertical boarding with a similar pitch of profile. The character of the barn would be clearly recognisable in the design of its conversion. I conclude that the building is capable of conversion without major re-construction that would detract from its original character. The proposal would therefore meet the test in policy GB7.
10. I turn now to the guidance in the Council's Green Belt Supplementary Planning Document 2015 (SPD). The conversion would retain at least 75% of the structure and there is no evidence that the building could not remain standing during construction works. While its walls and roof would be reclad, the replacement materials would retain the agrarian, rural character of the barn. I can identify no material conflict with the advice in the SPD.

11. I am satisfied that the proposed development would not conflict with any of the five purposes of including land in the Green Belt as indicated in paragraph 80 of the Framework, and the Council raises no issue in this regard. Though the barn would not be enlarged and the physical works would not reduce openness, its residential use would be likely to result in some reduction in openness. However, given the scale of the development and its proximity to substantial trees beside two of its walls, this would be slight.
12. I therefore conclude that the proposed development would not be inappropriate development in the Green Belt. There would be no conflict with the Framework or with ADMP policy GB7 and the guidance in the Council's SPD.

The effect on the protected trees proposed to be retained

13. The access drive to the converted building would pass between two stands of trees. The Council is concerned that without details of how the driveway would be installed, there would be a risk of damage to the trees to be retained, particularly the group of trees (G13) which have been classified as B2² and are a prominent landscape feature with at least 20 years life remaining.
14. While I understand the Council's concern to protect these trees, the new driveway would lie beyond their root protection areas. The tree protection plan indicates sufficient space for working room to form the driveway clear of the protective fencing around these trees and the construction exclusion zone around the trees to the south of the driveway. Furthermore, the Arboricultural Method Statement outlines a protocol for specialist tree supervision before and during the works, which could be secured by condition to ensure the works are properly monitored.
15. I therefore conclude that subject to conditions to protect those trees during the works, the proposed development would not harm the protected trees proposed to be retained. There would be no conflict with ADMP policy EN1 which requires proposals not to result in the loss of green infrastructure that would have an unacceptable impact on the character of the area, and to avoid or mitigate any potential harm.

Other matters

16. Paragraph 115 of the Framework requires great weight to be given to conserving landscape and scenic beauty in AONBs. While the proposal is within the AONB, given that the alterations to the barn would retain its character, and noting its location behind Vine Cottage and the limited site area, it would have little impact on its landscape value, and would not detract from its scenic beauty.

Conditions

17. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance. I have imposed a condition specifying the approved plans to provide certainty. A facing materials condition is unnecessary given the details in the drawings and in the application form. As the trees are covered by the TPO, a broad protection condition is unnecessary.

² BS 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations, Tree Quality Assessment Cascade Chart.

18. However, conditions to protect the retained trees including a scheme of supervision are necessary in the sensitive landscape context of the development. Much of the detail has already been provided in the arboricultural submissions so the condition refers to these where expedient.
19. In these sensitive surroundings and given the size of the site, it is necessary for ground surfaces, boundary treatments and planting to be controlled by condition. The tree planting proposed by the appellant would mitigate the felling of the protected trees, and should for certainty and clarity, together with the details of species, size and planting, be secured by condition. Given the implications of seasonal planting on the construction programme, submissions under these conditions should be resolved before commencement.
20. Given the scale and character of the building and the spatial and landscape sensitivity of the area, the potential to enlarge the dwelling and erect outbuildings, fences and further access without adversely affecting the openness and character of the building and the area is limited.
21. While the PPG advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of permitted development rights for enlargement, porches, outbuildings, fences etc. and means of access would be necessary. The removal of rights under these classes would be reasonable, as a restrictive condition would not prevent development, but would bring it under planning control. However, the removal of rights under classes C, F, G and H are unnecessary and would be unreasonable, and class B does not give effect in an AONB. Accordingly, I have imposed a condition restricting development under classes A, D, and E of Part 1 and classes A and B of Part 2.

Conclusion

22. I have found that the re-use of the barn as a dwelling would not be inappropriate development in the Green Belt and the proposal would not harm the protected trees proposed to be retained. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

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: 16/12/01 LOCATION PLAN; 16/12/02 EXISTING SITE PLAN; 16/12/03 PROPOSED SITE PLAN; 16/12/04 EXISTING PLAN+SECTION; 16/12/05 EXISTING ELEVATIONS; 16/12/06 PROPOSED PLANS; 16/12/07 PROPOSED SECTIONS+ROOF PLAN; 16/12/08 PROPOSED ELEVATIONS.
- 3) No works or development shall take place until a scheme of arboricultural supervision based on the outline scheme in sections 2.19 and 2.20 of the Arboricultural Method Statement ref:4158/17-03 by PJC Consultancy Ltd dated 1 February 2017 shall have been submitted to and approved in writing by the local planning authority. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved in writing by the local planning authority. The scheme of supervision shall be implemented as approved.
- 4) No works or development shall take place until the trees and hedges shown on drawing PJC/4158/17/B Tree Protection Plan as included in the Arboricultural Method Statement ref:4158/17-03 by PJC Consultancy Ltd dated 1 February 2017 (AMS) as "to be retained" have been protected by strong fencing as described in the AMS and as shown on the Tree Protection Plan. The fencing shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 5) No works or development shall take place until a full specification of the proposed replacement tree planting has been submitted to and approved in writing by the local planning authority. The specification shall include the quantity, size, and species, of all trees to be planted in the number and positions indicated on drawing PJC/4158/17/B Tree Retention Plan and included in the Arboricultural Impact Assessment ref:4158/16-02 by PJC Consultancy Ltd dated 1 February 2017, as well as how they will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification.
- 6) No works or development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials including decks and terraces;
 - iii) planting plans;
 - iv) schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is occupied.

- 7) If, within a period of 5 years from the date of planting, a replacement tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies

or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.

- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any plants which within a period of 3 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements as provided for within Schedule 2, Part 1, class A and class D, no development as provided for within class E, and no minor operations as provided for within Schedule 2, Part 2, class A and class B of that Order shall be constructed.

END OF THE SCHEDULE OF CONDITIONS