



Appeal Decision

Site visit made on 10 June 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/U1430/W/19/3222952

The Hammonds, Telham Lane, Battle TN33 0SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Macduff against the decision of Rother District Council.
- The application Ref RR/2018/2479/P, dated 2 October 2018, was refused by notice dated 28 November 2018.
- The application sought planning permission for the alteration and extension of a single storey agricultural building to create a two bedroom holiday chalet together with alterations to an existing farm access without complying with conditions attached to planning permission Ref RR/2014/263/P, dated 2 April 2014.
- The conditions in dispute are Nos 10, 11 and 12 which state that:
 - 10. The converted building hereby approved is to be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.
 - 11. The owners/operators shall maintain an up-to-date register of the names of all owners and/or occupiers of the holiday let on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
 - 12. The proposed holiday units shall not be occupied for more than 56 days in total in any calendar year by any one person.
- The reasons given for the conditions are:
 - 10. To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation in accordance with Policies EM11 and HG10 of the Rother District Local Plan (2006) and Policies ECG (vi) and RA3 (ii) & (iii)(b) of the Rother District Local Plan – Core Strategy.
 - 11. To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation in accordance with Policies EM11 and HG10 of the Rother District Local Plan (2006) and Policies EC6 (vi) and RA3 (ii) & (iii)(b) of the Rother District Local Plan – Core Strategy.
 - 12. To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation in accordance with Policy EM11 of the Rother District Local Plan (2006) and Policies EC6 (vi) of the Rother District Local Plan – Core Strategy.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal application was submitted in order to seek the removal of 3 planning conditions, which together restrict the use of the building to a holiday chalet, to enable it to be used for permanent residential occupation.

3. The Council has cited policies from an emerging Development and Site Allocations Local Plan but as these have not yet been adopted, I have afforded these only limited weight.

Main Issues

4. The main issues are the effects of the removal of the conditions on:
 - i. the supply of tourism accommodation in the area and whether or not the building is in a suitable location for permanent residential occupation;
 - ii. the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

5. The site is situated in rural surroundings and is approached via a long un-made track. It consists of the holiday chalet building, which is timber clad, with a large area of hardstanding and other small structures to the front. The remainder of the site is largely wooded.

Supply and location

6. The appellant states the building has not been completed or occupied as tourist accommodation, although at the time of my site visit it appeared to be residentially occupied. Nevertheless, planning permission¹ was granted in 2014 for a holiday chalet and it therefore forms part of the stock of such accommodation in the area, along with the economic benefits this would bring. Whilst the economic benefits of permanent occupation may not be dissimilar to those of holiday accommodation, I am not persuaded on the evidence before me that there is no prospect of the building being used for its lawful planning purpose.
7. Whilst there might be more demand for holiday accommodation in or closer to a town, the site has particular rural qualities that may well be attractive to staying visitors. Given there is little evidence that the building has been marketed for holiday purposes, I am not convinced that a future beneficial economic contribution to this sector would not be possible.
8. For the purposes of the Rother District Council Local Plan Core Strategy, September 2014 (the RLP), the site is located in the countryside. Policy RA3 (iii) of the RLP only allows the creation of permanent dwellings in such areas in extremely limited circumstances. Paragraph 79 of the National Planning Policy Framework (the Framework) also seeks to avoid isolated homes in the countryside. The Council's policy approach for residential development within the District is therefore broadly consistent with the housing approach set out in the Framework.
9. The site is approximately 1 mile from the nearest amenities, such as shops, in Battle. However, in my view the site would still be remote from many day-to-day services and facilities and future permanent occupiers would be heavily reliant upon a private car as the nearby roads are narrow and unlit. There is also little evidence about employment and education opportunities that could be accessed without being reliant upon a private car. It is therefore not a

¹ Council Ref RR/2014/263/P

location where a permanent dwelling would normally be considered acceptable and is a significant factor weighing against the appeal scheme.

10. It would, accordingly, be in an unsuitable location. Given the sites location in the countryside, there is no suggestion from the appellants to indicate that the dwelling is required for agricultural or rural workers or accords with a specific policy of the RLP or the Framework.
11. I therefore conclude the removal of the conditions would harm the supply of tourism accommodation in the area and that the building is not in a suitable location for permanent residential occupation. It would therefore fail to comply with Policies EC6 (iv) and RA3 (iii) of the RLP. These policies, amongst other things, will not permit schemes that involve the loss of tourism accommodation unless there is no prospect of its continued use, and only allows the creation of permanent dwellings in extremely limited circumstances. For the same reasons, the removal of the conditions would not accord with the Framework, which seeks to support a prosperous rural economy and locate housing in the most accessible and sustainable locations.

Landscape and scenic beauty

12. The site is therefore in a remote rural location. The building and open area around it, which includes the hardstanding and other structures, is well screened within the landscape and is not open to public view and so cannot be seen in the wider context of the AONB. This is a consequence of its access, via a long un-made track, given the building sits centrally within its plot and is not located near to its adjoining neighbours. Nevertheless, it is an attractive site that otherwise exhibits and contributes significantly to the intrinsic qualities of landscape and scenic beauty of the AONB.
13. Whilst the building was formerly in agricultural use and therefore is a type of building found within the AONB, and typical of small buildings found in rural settings, the removal of conditions would result in its unfettered residential occupation.
14. In my view this would lead to increased pressures for development at the site to provide improved standards of accommodation in order to meet the needs of future occupiers. It would also have an increased urbanising impact given the permanent presence of domestic paraphernalia, as opposed to being equal to a holiday let that is restricted to no more than 56 days occupation by any one person in a calendar year.
15. The building forms part of a wider cluster of small residential buildings found locally. However, I have little evidence that the removal of the conditions, and resultant permanent residential occupation of it, would reflect the character of this part of the AONB, being neither part of a hamlet or farmstead. Pressures for further development and signs of permanent residential occupation would therefore be likely. This is not a vague or generalised assertion as whilst there are no public vantage points, the intrinsic landscape and scenic beauty of the AONB is important to protect. A permanent dwelling, when compared to a holiday let, would therefore impact negatively upon the character and qualities of the AONB. Indeed, it would compromise the character of the countryside and fail to conserve and enhance its open landscape character and beauty.

16. The removal of the conditions would be harmful to the landscape and scenic beauty of the High Weald AONB. As such the scheme would conflict with Policies OSS4 (i) and (iii), RA3 (iv) and (v) and EN1 (i) and (v) of the RLP. These policies, amongst other things, require that development should: meet the needs of future occupiers; not detract from the character and appearance of the locality; not compromise the character of the countryside; not adversely impact on landscape character; enhance the distinctive identified landscape character of the AONB; and, protect open landscape.
17. The removal of conditions would also be contrary to Framework policies which require that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONB's, which have the highest status of protection in relation to these issues.

Other Matters

18. I appreciate the site has been subject to anti-social behaviour and the target of theft and that permanent occupation could improve security. The appellant has also encountered issues trying to insure the site. However, I am not convinced that permanent residential occupation would be the only way to improve security and so this matter carries neutral weight. I also appreciate that the removal of the conditions would not harm the living conditions of neighbouring residents and no highway safety harm has been identified. However, these matters are requirements of the development plan in order to make a scheme acceptable in other respects and so only carries neutral weight.
19. Reference is made to appeal decisions which are indicated to relate to similar schemes, but as these sites were in different locations and the full details are not before me, they do not outweigh my findings in relation to the main issues and in any event, I have determined the appeal on its own merits.

Planning Balance

20. The Council acknowledges that it cannot demonstrate a five-year housing land supply and I have also had regard to the 2018 Housing Delivery Test results. The removal of the conditions, resulting in a dwelling used for permanent residential occupation, would therefore weigh in favour of the appeal proposal in this regard. However, I have found the removal of conditions would harm the supply of tourism accommodation in the area and that the building is not in a suitable location for permanent residential occupation. The removal of the conditions would also be harmful to the landscape and scenic beauty of the High Weald AONB and so the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

Conclusion

21. For these reasons, I conclude that the appeal should be dismissed.

Paul T Hocking

INSPECTOR