



Appeal Decision

Site visit made on 3 April 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Appeal Ref: APP/C3620/W/18/3210064

Melton Hall Farm, Rusper Road, Newdigate, Dorking, RH5 5BX.

- 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 Mr & Mrs I Osborne-Patterson against the decision of Mole Valley District Council.
 - The application Ref MO/2018/0594/CC, dated 29 March 2018, was refused by notice dated 3 August 2018.
 - The application sought planning permission for the conversion of stable block to residential accommodation ancillary to main dwelling, without complying with a condition attached to planning permission MO/2005/0452/PLA.
 - The condition in dispute is No. 3 which states that: The accommodation hereby approved shall only be occupied as an integral part of the existing dwelling by the immediate family members (parents and children) of the family of the occupiers of Melton Hall Farm or by members of staff employed at Melton Hall Farm with no subdivision of the existing residential curtilage.
 - The reason given for the condition is: To ensure that the additional accommodation is not severed from the main dwelling as this would conflict with the strict Green Belt policy that is applied in this area.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of stable block to residential accommodation ancillary to main dwelling at Melton Hall Farm, Rusper Road, Newdigate, Dorking, RH5 5BX in accordance with the application Ref MO/2018/0594/CC, dated 29 March 2018, without compliance with condition number 3 previously imposed on planning permission Ref MO/2005/0452/PLA, dated 23 May 2005 and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1803-07-PL01, 1803-07-PL002, 1803-07-PL03a and 1803-07-PL04a.
 - 2) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Melton Hall Farm.

Application for costs

2. An application for costs was made by Mr and Mrs Osborne-Patterson against Mole Valley District Council. This application is the subject of a separate Decision.

Preliminary matters

3. Planning permission was originally granted for the conversion of the former stable block to residential accommodation ancillary to the main dwelling in 2000. This permission was renewed in 2005 and condition 3 is the subject of this appeal. The planning statement submitted with the application states that there is no intention to sell the building off from the rest of the property and the application does not seek to amend the description of the 2005 permission which is "residential accommodation ancillary to the main dwelling".
4. In their appeal statement the appellants reconfirm the intention that the proposal does not seek to change the ancillary nature of the building. That the existing condition should be removed, or its scope extended and that the Council's concern regarding the use of the building as an independent dwelling is unfounded speculation.
5. With the applicants' consent the Council changed the description for the proposal to *"Removal of condition 3 of approved planning permission MO/2005/0452 for the renewal of planning permission MO/2000/0580. Conversion of stable block to residential accommodation ancillary to main dwelling to allow the building to be occupied by persons who are not family members or employees."* This again confirms that the accommodation would remain ancillary to the main house, but states that the occupiers would not necessarily be staff or family members.
6. For the avoidance of any doubt I confirm that the appeal has been determined on this basis, that the residential accommodation would be used for occupation ancillary to the main dwelling, but not restricted to staff or family members.
7. The site plans originally submitted with the appeal application included a different vehicular access to the south of the building along with a garden area to the rear of the building (drawings 1803-07-PL03 & PL04). These features are located outside the site area approved in 2005 and so substitute drawings were submitted, which accord with the approved development (drawings 1803-07-PL03a & PL04a). For the avoidance of doubt, my decision is based on the amended drawings (numbers 1803-07-PL03a and 4 1803-07-PL04a) which are the plans on which the Council determined the application.
8. It is noted that the appeal was lodged after the publication of the revised National Planning Policy Framework (the Framework) in 2018 and so both main parties were able to address any changes introduced in it. Both of the main parties have also been given the opportunity to comment on changes introduced in the further revised 2019 Framework.

Main Issue

9. The main issue is whether condition 3 is necessary and reasonable, having regard to the nature of the approved development and the location of the appeal building within an area of countryside.

Reasons

10. The Framework states that conditions should only be applied where they are necessary, relevant to planning and to the development permitted, enforceable, precise, and reasonable in all other respects.
11. The appeal site is located within a small group of scattered dwellings and other buildings, set within an area of undulating countryside. The appeal building is located within the domestic curtilage of the Melton Hall Farmhouse and comprises a living/kitchen area, two bedrooms and two bathrooms. It has no separate garden or parking area and forms one side of a horseshoe of buildings, arranged around a yard/parking area. The two other buildings have the appearance of traditional stables and there is a sand school located a short distance to the rear of the Appeal building. The main dwelling is similarly situated a short distance from and faces towards the appeal site and other buildings.
12. As stated above the approved scheme is described as residential accommodation ancillary to the main dwelling and the proposal does not seek to change this. Condition 3 is very specific in how the accommodation can be occupied. It restricts the occupation of the building to immediate family (Parents and children) or staff employed at Melton Hall Farm.
13. Whilst the appellants have not stated what kind of accommodation is sought for the building, they have confirmed that it is not the intention to change its ancillary nature. Moreover, I have been provided with no evidence that the building would be used as a separate dwelling. In my view, condition 3 is somewhat restrictive as it prevents the occupation of the building by visiting friends, various relatives, the partners of relatives and other users which are ancillary to the occupation of the main dwelling. This is despite the fact that, as ancillary accommodation, the effect of such occupation would not be materially different to that outlined in condition 3. The size of the ancillary accommodation and the character and appearance of the building would remain unaltered, no separate curtilage would be created and the main dwelling and the planning unit as a whole would not change. Also, as ancillary accommodation, its impact on the living conditions of the occupiers of the adjacent dwellings would be unlikely to change materially.
14. In the particular circumstances of this case I find condition 3 to be unduly restrictive. However, for the above reasons a condition to ensure the building remains as ancillary accommodation is necessary, reasonable and meets the tests set out in the Planning Practice Guidance and the Framework.
15. The Council has suggested the imposition of a new condition which would require that the building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Melton Hall Farm. This would accord with the terms of the proposal as it would ensure that the appeal building could not be used for an independent dwelling or as independent living accommodation within the grant of planning permission. Without the suggested condition the appeal building could potentially be occupied for such purposes.
16. Although in their final comments the appellants have commented that such a condition is unnecessary, in their appeal statement they refer to an almost identical condition attached to an appeal decision elsewhere. They state that

the condition would provide a broader occupancy whilst still ensuring that the building remained ancillary and the imposition of this condition would have avoided the need for this appeal.

17. Subject to the suggested occupancy condition, the proposal would comply with policies CS1, CS13, CS15 & CS16 of the Mole Valley Core Strategy 2009, policies ENV22 & ENV23 of the Mole Valley Local Plan (LP) and the Framework, in so far as these are relevant to the proposal. Amongst other things they seek to ensure that new development respects the character and appearance of the landscape and the locality; protects biodiversity; protects the countryside for its own sake; relates well to existing development in terms of accessibility; and makes effective use of existing land and buildings.
18. A number of other policies have been referred to by the Appellants and the Council. LP Policy RUD9 relates to new ancillary domestic buildings within the curtilage of existing dwellings. It states that they should not be readily capable of subsequent conversion to residential accommodation and should be for ancillary domestic purposes only. Whilst the policy is aimed at new ancillary buildings it was applicable when the ancillary conversion was allowed in 2005. As such, it is relevant to the background to the proposal and the imposition of condition 3.
19. LP Policy RUD19 relates to the re-use of rural buildings. As this policy specifically relate to the reuse and adaptation of existing buildings, it is not directly relevant to the proposal. This is because the proposal does not involve the re-use and adaptation of a rural building, it simply seeks greater flexibility in the approved use. Similarly, the policies that refer to the supply and location of new homes are not directly applicable to the proposal.
20. Finally, the appellants have referred to two appeal decisions relating to a property first used for staff and subsequently used for ancillary residential accommodation. However, the original description for that property was as a dwelling for staff accommodation. In effect it was approved as a separate dwelling to accommodate staff. Conversely the appeal building was approved as residential accommodation ancillary to the main dwelling and not as a separate dwelling. Therefore, these decisions are not directly comparable to the Appeal proposal.
21. I conclude that condition 3 fails the tests of need and reasonableness as set out in the Framework and the PPG. Without the condition the appeal building would continue to comply with LP policies ENV3 and RUD9, CS policies CS1, CS13, CS15 & CS16 of the CS insofar as they are relevant to the main issue.

Conclusion and conditions

22. Having found in favour of the appellants on the main issue, I have considered whether the imposition of any other conditions, in addition to the condition referred to in paragraph 15 above, would be necessary and reasonable, including the conditions imposed on the 2005 planning permission.
23. The construction of the development has already taken place and so conditions 1 and 2 of the 2005 permission are no longer necessary. Condition 4 of the 2005 approval seeks to prevent the insertion of any roof lights in the building. The reason given for this condition is to restrict the enlargement of the dwelling, due to its rural location. Having regard to the pitch of the roof and

the modest depth of the building there would be very little scope to provide any meaningful accommodation within the roof-space. Accordingly, I consider that this condition is unnecessary. However, in the interests of certainty, a condition that requires the development to be carried out in accordance with the approved plans is necessary. Other than this, I do not consider that any other conditions are necessary, having regard to the nature of the building, its use and its location.

24. The reason stated for originally imposing condition 3 was because the site was located in the Green Belt. The Council has confirmed that this was done in error as the site is not within the Green Belt. Also, that the condition is still necessary as the site is located in an area of restraint by virtue of LP policy ENV3. I confirm that the consideration of this appeal must be based on present circumstances and so is not confined to the original reason for imposing the condition.
25. For the above reasons, having regard to all other matters raised, I conclude the appeal is allowed.

Elizabeth Lawrence

INSPECTOR