
Appeal Decision

Site visit made on 3 July 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/M2270/W/18/3216031

Free Heath Buildings, Free Heath, Wadhurst, East Sussex TN5 6RB

- 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 Alex Levitt against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/02011/FULL, dated 25 June 2018, was refused by notice dated 17 August 2018.
 - The development proposed is conversion of a redundant agricultural building to holiday accommodation.
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Decision

1. The appeal is allowed, and planning permission is granted for conversion of a redundant agricultural building to holiday accommodation at Free Heath Buildings, Free Heath, Wadhurst, East Sussex TN5 6RB, in accordance with the terms of the application, Ref 18/02011/FULL, dated 25 June 2018, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Alex Levitt against Tunbridge Wells Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposal would amount to the construction of a new building, the effect of the proposal on the rural landscape character of the area and the suitability of the location for tourist accommodation.

Reasons

Whether a new building

4. The appeal relates to an area of land about 0.5ha in area in a remote rural location. The site has previously been used for intensive poultry farming but that use has long since ceased. A poultry shed and steel hopper remain on site alongside the concrete base for a second poultry shed recently demolished. There is an access from Free Heath Road leading to a parking area in front of the building. The remainder of the site is mainly grassed. The site is located within an Area of Outstanding Natural Beauty (AONB).
5. The proposal is to convert the remaining poultry shed to holiday living accommodation. The existing building has a regular rhythm of openings to both

flanks designed for feeding poultry; these would be altered to form new window and door openings. New windows and doors would similarly replace the present full height openings in the end elevations. Three steel rectangular box structures positioned along the ridge line for ventilation would be removed in the provision of a new fibre cement sheeting roof that would match the profile of the existing roof. The building would provide a large living, dining and kitchen area, 2 large bedrooms, a bathroom and cupboards. A garden is shown on the plans around the building defined by a post and rail fence. The redundant steel hopper would be removed.

6. The policies referred to in the Council's decision notice all pre-date the National Planning Policy Framework (the Framework) and attract weight in accordance with their consistency with the Framework. There is some encouragement for the conversion of rural buildings in Paragraph 83 of the Framework relating to supporting a prosperous rural economy. This states that planning decisions should enable "*(a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*" and "*(c) sustainable rural tourism and leisure developments which respect the character of the countryside*". Saved Policy T3 of the Tunbridge Wells Borough Local Plan (2006) (LP) also supports the conversion of rural buildings in keeping with their surroundings to tourist accommodation as a valuable economic use for redundant buildings.
7. The Council refused permission to a previous similar proposal (18/00464/FULL) that was supported by a structural survey prepared by BdR for the appellant (the December 2017 report). The current appeal is supported by a second structural inspection report by BdR (the May 2018 report). The May 2018 report concludes "*the purpose of this report was to establish whether the existing building could be converted for domestic use and qualify such conclusions with details of general repair. From our observations we are of the opinion that the proposed conversion is a viable undertaking and that the building is sound and not in need of major reconstruction. The drawings produced to date, including the existing and proposed layouts can be considered as a logical and sympathetic use of a redundant farm building*".
8. The Council does not accept this conclusion but refers to statements in the December 2017 report to support its contention that the necessary works would amount to the construction of a new building rather than a conversion. It emphasises references in the December 2017 report to structural damage to the southern elevation, the need for strengthening of timber trusses and the stripping of internal and external cladding. However, whilst the December 2017 report refers to "*an area*" on the southern elevation with structural damage, the May 2018 report confirms that the length of this is only about 1m, a small area damaged by falling vegetation. Both reports refer to just two trusses subject to "*localised decay*". The December 2017 report refers to the stripping of cladding to enable inspection "*and any rotten or defective timbers replaced or strengthened*". The May 2018 report points out that the "*existing shiplap cladding is mainly adequate*" but "*there are small areas generally at ground floor level which will require replacing*".
9. The reports are prepared by the same professional civil and structural engineering consultants. To my mind the findings of the two reports are consistent. It is only to be expected that a timber building of this age that has been neglected for some years shows some signs of decay requiring remedial

attention. But the main structure appears to be sound. The May 2018 report confirms that *"the walls are plumb and therefore appear adequate to support the existing loads"*. Alterations, such as the removal of the roof vents and insertion of new windows and doors in existing openings, would be necessary for the conversion to an alternative use. The extent of the changes portrayed in the submitted plans would not be so extensive to amount to the construction of a new building rather than a conversion.

10. The Council has drawn my attention to a caveat in the May 2018 report to doubt that the building is structurally capable of conversion. This states, *"We have not inspected woodwork or other parts of the structure which are covered, unexposed, or inaccessible and we are, therefore, unable to report that any such part of the building structure is free from defect"*. It is reasonable to include such a caveat in relation to parts of the building that have not been seen; furthermore, this does not undermine the conclusions reached in respect of the parts that can be seen that the building can be converted.
11. The December 2017 report makes a fuller comment about changes to the existing concrete floor than in the May 2018 report, but that is in the context of possible building regulation requirements, a separate consent regime. Any material changes to a planning proposal arising from building regulation requirements would be a matter for the parties to consider.

Landscape character

12. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. Policies 4 and 14 of the Tunbridge Wells Borough Core Strategy (2010) (CS) have similar aims and Policy 14 (6) stresses that a policy of restraint will operate in order to maintain the landscape character and quality of the countryside.
13. That restraint would particularly apply to new buildings, but my findings are that the proposal relates to the conversion of a former agricultural building. There would be no change in the siting of the building and the only change in the profile would be the removal of the raised vents. The replacement of some external materials and insertion of doors and windows would result in some changes to the external appearance associated with conversion works. However, this would not result in a significant change in the impact of the building on the surrounding landscape character. The site has screening vegetation to most boundaries and the building is only readily visible from the site access and from Bramble Cottage, a dwelling located close to the site's north-western boundary. Whilst the surrounding area contains agricultural land and woodland, the adjacent site to the south, Free Heath House, is also residential in nature. The proposed residential use of the site, albeit as tourist accommodation, would not be out of keeping with the character of the area.
14. The proposal would not therefore be in conflict with the landscape provisions of the Framework or with LP Policies 4 and 14. Moreover, it would be in accordance with Saved Policies LBD1 and EN25 of the LP; these require for sites such as this, outside the limits to built development, that proposals have a minimal impact on the landscape character of the locality. The proposal would also comply with Saved Policy EN1 of the LP that requires the nature and intensity of the proposed use to be compatible with neighbouring uses and to not cause significant harm to the character of the area or to the amenities of adjoining occupiers.

15. The Council has referred to a recent appeal decision at this site in which the Inspector concluded that the buildings the subject of an enforcement notice would fail to conserve the landscape and scenic beauty of the AONB¹. However, unlike the current appeal proposal, that decision related to new structures on the site without a previous agricultural use or agricultural justification for the proposal.

Sustainability

16. The site is in a rural area well away from services or amenities in Lamberhurst, Wadhurst or Cousley Wood, the nearest settlements. Paragraph 83 of the Framework encourages new rural tourism to be sustainable, but Paragraph 84 notes that this may not always be possible. It states that planning decisions should recognise that *"sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)"*.
17. As a conversion of a long standing building the proposal would be sensitive to its surroundings. As a single unit of accommodation, it would not have an unacceptable impact on local roads even if there are not opportunities to make the location more sustainable. The Council notes that there could be benefits in accommodating tourists close to Bewl Water that is not far away. The reuse of this redundant building for this purpose would be in accordance with Policy T3 of the LP. Notwithstanding the relatively isolated location, the proposal would be compatible with the provisions of the Framework taken as a whole.

Conclusion and Conditions

18. My findings are that the extent of the works declared in the proposal can reasonably be regarded as a conversion of the existing building and would not amount to the construction of a new building. In view of the limited changes to the structure, there would not be an adverse effect on the rural landscape character of the area and that this would be a suitable location for tourist accommodation. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to conditions.
19. In addition to the statutory condition limiting the time period for commencement of the development, a condition is necessary to list the plans and documents approved in the interests of certainty. To ensure that the building is used as holiday accommodation as proposed, conditions are necessary to control changes of use and to limit the extent of occupation by individual persons.
20. To ensure a satisfactory appearance to the development conditions are necessary to approve materials used in the conversion and in relation to landscape measures. The access parking and turning arrangements need to be provided as specified to ensure the efficient operation of the site. To safeguard the impact of subsequent changes on the landscape character of the area conditions are necessary to define the curtilage to the building and to withdraw

¹ APP/M2270/C/16/3163191

certain permitted development allowances. Finally, to ensure that the development promotes biodiversity conditions are necessary to approve enhancement measures and to control external lighting.

Rory MacLeod

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 5543/18/1/A; 5543/18/LBP/A.
- 3) The premises shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) Notwithstanding the provisions of the above legislation, the unit shall not be occupied by the same person for a period longer than six weeks. The same person shall not occupy the unit within a period of three months of vacating the accommodation. For the avoidance of doubt the premises shall not be used at any time as a sole and principal residency by any occupants, and the premises shall not be used as a second home by any person.
- 5) Details of the materials to be used in the alteration of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority prior to the alterations taking place and the changes shall be carried out in accordance with the approved details.
- 6) Prior to occupation of the building there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include enhancement of the front boundary hedge with the road, and indications of all existing trees and hedgerows on the land to be retained. 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 trees or plants which within a period of 5 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.
- 7) The access, vehicle parking and turning area hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.
- 8) The development hereby permitted shall not be occupied until the post and rail fence shown on approved drawing 5543/28/LBP/A has been provided. The curtilage to the development hereby approved shall be limited to the area around the building defined by the post and rail fence.

- 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 development shall be carried out within Classes A-E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without the prior planning permission of the Local Planning Authority.
- 10) Notwithstanding the submitted details, prior to the first occupation of the development an ecological enhancement strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall follow the recommendations of the submitted Preliminary Ecological Appraisal dated January 2018. All works shall then proceed in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the development hereby permitted is occupied. Any lighting shall be installed in accordance with the approved details.