



Appeal Decision

Site visit made on 11 February 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2020

Appeal Ref: APP/E2205/W/19/3240711

Missingham Farm, Pilgrims Way, Brabourne Downs, Brabourne, TN25 5LU

- 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 Crispin Beale against the decision of Ashford Borough Council.
 - The application Ref: 19/00819/AS dated 4 June 2019, was refused by notice dated 1 October 2019.
 - The application sought planning permission for conversion of three barns to office and two holiday lets, together with demolition of Atcost barn without complying with a condition attached to planning permission Ref: 15/01258/AS dated 23 February 2016.
 - The condition in dispute is No. 12 which states that: "The holiday let shall be used for holiday accommodation only and shall not be occupied by any person as his or her sole or main place of residence."
 - The reason given for the condition is: "The establishment of a permanent residential use of the site would be contrary to Development Plan policies and detrimental to the character of the area."
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of three barns to office and two holiday lets, together with demolition of Atcost barn, at Missingham Farm, Pilgrims Way, Brabourne Downs, Brabourne, TN25 5LU in accordance with the application Ref: 19/00819/AS without compliance with condition number 12 previously imposed on planning permission Ref 15/01258/AS dated 23 February 2016 but subject to the conditions set out in the attached schedule.

Procedural Matters

2. Section 73 of the Town and Country Planning Act 1990 does not empower me to change the description of the development from that for which permission was originally sought. I have therefore used the original description of development in my decision.

Background and Main Issue

3. Planning permission was granted in 2016 for the conversion of 3 barns on the appeal site to office and 2 holiday lets. From the evidence before me, the development has been commenced but not completed and the disputed condition, which restricts the use of the holiday lets to holiday accommodation only, has not been breached. The appeal seeks the removal of this condition in

order that the 2 buildings the subject of this condition can be used as permanent residential accommodation.

4. The main issue is whether the appeal premises are in a suitable location for use as permanent residential accommodation having particular regard to national and local policies concerning dwellings in the open countryside.

Reasons

5. There is no dispute between the parties that the appeal site lies outside the confines of any settlement. The first part of Policy HOU5 of the Ashford Local Plan 2030 (2019) (ALP) on residential development in the countryside allows development close to the existing built up confines of a number of specified settlements, subject to compliance with a number of criteria. Criterion b) requires the site to be located within easy walking distance of basic day to day services in the nearest settlement, indicated in the supporting text to be 800 m, and / or have access to sustainable methods of transport to access a range of services.
6. The nearest settlement to the appeal site specified in Policy HOU5 is Brabourne Lees/Smeeth. However, from the evidence before me and my observations during my site visit, this settlement is over 3 km from the appeal site and accessed by an unlit rural lane with narrow verges. There is no footway until the built-up area of Brabourne Lees and the appeal site does not benefit from a bus service nearby. The appeal site is therefore not close to the settlement and the use of these buildings as permanent dwellings would conflict with criterion b) of the policy.
7. However, the second part of Policy HOU5 allows residential development elsewhere in the countryside in five specified circumstances. One of these is where the proposal is for the re-use of redundant or disused buildings and would lead to an enhancement to its immediate setting. This approach is consistent with paragraph 79 of the National Planning Policy Framework (the Framework).
8. I observed during my site visit that the buildings on the appeal site have a plain, utilitarian appearance with the predominant materials being concrete block with cladding and roofing of corrugated sheets. Building 5 as shown on the submitted Site Plan was roofless and Building 2 was partially dilapidated. At the time of my site visit, Building 2 was partially in use for the storage of tack but there was no obvious use of Buildings 1 or 5. From the evidence before me and my observations, I am satisfied that Buildings 1, 2 and 5 are redundant or disused. I note that the Council does not dispute this.
9. The permitted development is the conversion of Building 1 to an office and Buildings 2 and 5 to holiday lets, with the demolition of Buildings 3 and 4. From the evidence before me, the Council considered that the conversion of the buildings and the removal of Buildings 3 and 4 would significantly improve the character and appearance of the area. The buildings are not, in my experience, atypical of those found on farms and are therefore not out of character with the countryside. However, given their utilitarian materials and dilapidated condition, they are not attractive buildings and the approved development would result in an enhancement of their appearance and consequently of that of the area.

10. While the unrestricted use of Buildings 2 and 5 as permanent dwellings could lead to a greater level of domestication and domestic paraphernalia than their use as holiday lets, I nevertheless consider that the development would result in an overall enhancement of the site and area.
11. The Council contends that as planning permission has been granted for the conversion of Buildings 1, 2 and 5 and the demolition of Buildings 3 and 4, the proposal before me would not result in any further enhancement. However, the appellant has submitted financial information on the costs of converting these buildings to holiday lets and the projected returns from letting. Based on these estimates, it would take approximately 55 – 65 years to recoup the investment in holiday lets. The Council has not disputed these figures. Based on the evidence before me, therefore, the development is unlikely to proceed as permitted. It is reasonable therefore to assess the proposed development against the existing situation as I have done above.
12. The appeal site is located within the Kent Downs Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONB. Policy HOU5 also requires proposals located within an AONB to demonstrate that it is justifiable within the context of their national level of protection and conserves and enhances their natural beauty. Given my conclusions above on the effect of the proposed development on the character and appearance of the area, I find no conflict with paragraph 172 of the Framework or Policy HOU5 in this respect.
13. Policy SP1 of the ALP sets out a number of strategic objectives to deliver the 'vision' for the Borough in 2030, which are also core planning principles to which planning applications are expected to adhere. These objectives / principles are wide-ranging and include to focus development at accessible and sustainable locations, to promote access to a wide range of sustainable transport modes, to conserve and enhance the Borough's natural environment and to provide a mix of housing types and sizes.
14. The development would therefore be contrary to some of the objectives / principles but accord with others. Consequently, there would be limited conflict with Policy SP1. However, the allowing of development in locations not adjoining or close to settlements in specific circumstances under the second part of Policy HOU5 could potentially result in tension with the general objectives / principles set out in Policy SP1 relating to the location of development. The proposal before me is an example where this tension occurs.
15. Policy SP6 of the ALP requires development proposals to be of high quality design. From the evidence before me, the overall design of the development satisfies this requirement. I note that the Council considered the design to be acceptable when determining the original application.
16. I therefore find that, in the particular circumstances of this case, the use of Buildings 2 and 5 as unrestricted permanent dwellings would be acceptable under Policies SP6 and HOU5 of the ALP and would be consistent with paragraphs 79 and 172 of the Framework. The limited conflict with Policy SP1 in respect of its objectives / principles for the location of development would, in my judgement, be outweighed by the development being one of the exceptions

to the general restriction of residential development in the countryside allowed under the second part of Policy HOU5 of the ALP.

17. Accordingly, I conclude that Condition 12 of 15/01258/AS is not necessary to ensure compliance with national and local policy and therefore fails to satisfy all six tests for conditions set out in paragraph 55 of the Framework.

Other Matters

18. Paragraph 8 of the Framework sets out economic, social and environmental objectives for the planning system to achieve sustainable development. Whilst it may be the case that people on holiday are more likely to visit local attractions and eat out, in my judgement the occupiers of permanent dwellings would be likely to use a greater range of local facilities and services on a more regular basis. In any event, from the evidence before me, the conversion of the two buildings to holiday lets is unlikely to take place, and the contribution to the local economy of the proposed development would be greater than that from the current disused buildings.
19. The Council contends that it can demonstrate a 5-year supply of housing land, which is not disputed by the appellant. However, the Council's housing requirement is not a maximum and two additional dwellings would contribute to the local housing stock. The proposal would therefore help achieve the social objective for the planning system. I have concluded above that the redevelopment of the site for an office and two permanent dwellings would result in an enhancement of the local environment, thus helping to meet the environmental objective.

Conclusion

20. For the reasons given above, and having regard to the other matters raised, I conclude that the appeal should be allowed. I will grant a new planning permission without the disputed condition. Furthermore, Conditions 2, 3, 4, 5, 6, 10, 16 and 17 from planning permission Ref: 15/01258/AS have already been discharged as confirmed by the Council¹ and in that regard are no longer relevant. In addition, as the development has already commenced, Condition 1 is no longer relevant. Similarly, as Condition 13 relates to the use of the buildings as holiday lets it is no longer of relevance. Consequently, I shall not attach those conditions to this grant of planning permission. I shall however retain those non-disputed conditions from the previous planning permission which appear still to be relevant.
21. I have amended the wording of conditions 2 and 3 from that in conditions 7 and 8 of permission 15/01258/AS to ensure that the visibility splays and vehicle parking and turning space are provided prior to the first occupation of any of the buildings.

Martin Small

INSPECTOR

¹ By email dated 13 February 2020

Schedule of Conditions

- 1) The development shall be carried out in accordance with the following plans, unless otherwise agreed by the Local Planning Authority: Drawings P065-PL06 B received 03 February 2016, Drawings P065-PL04 E received 12th January 2016 (with the exception of the references to holiday let unit), Drawing P65-PL01 B received 22nd October 2015 and Drawing P065-PL05A received 21st September 2015 and Structural Report dated November 2015.
- 2) Prior to the first occupation of any of the buildings, visibility splays of 2m x 43m within which there shall be no obstruction in excess of 0.9m in height above the carriageway edge shall be provided at the access and the splays shall be so maintained at all times.
- 3) Prior to the first occupation of any of the buildings, the area shown on the drawing number P065-PL04E as vehicle parking and turning space shall be provided, surfaced and drained in accordance with the approved details and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.
- 4) Prior to the first occupation of any of the units hereby approved the building shown for removal on approved plan P065-PL04 E shall be demolished and all materials arising therefrom shall be removed from the site.
- 5) Prior to the commencement of the use of the new access, the existing vehicular access to the site shown on drawing number P065-PL04E shall be permanently closed in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 6) The offices shall be used for B1(a) Office and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order revoking or re-enacting that Order.
- 7) No external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.
- 8) The development hereby approved shall be made available for inspection, at a reasonable time, by the Local Planning Authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

End of Schedule