



Appeal Decision

Site visit made on 12 March 2020

by M Seaton DipTP MRTPI

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

Decision date: 11 June 2020

Appeal Ref: APP/M2270/D/19/3237345

Gun Green Oast, Water Lane, Hawkhurst, Cranbrook, Kent, TN18 5BA

- 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 Richard Hodgson against the decision of Tunbridge Wells Borough Council.
 - The application Ref 19/01464/FULL, dated 24 May 2019, was refused by notice dated 25 July 2019.
 - The application sought planning permission for the conversion of oasthouse to dwelling and construction of double garage without complying with a condition attached to planning permission Ref TW/86/1546, dated 9 February 1987.
 - The condition in dispute is No 12 which states that:
Notwithstanding the provisions of the Town and Country Planning General Development Orders 1977 to 1985, no development shall be carried out within Class I, paragraph(s) 1 and 2 of the First Schedule to the 1977 Order (or any revoking and re-enacting that order), without prior approval of the District Planning Authority.
 - The reason given for the condition is:
To enable the District Planning Authority to regulate and control any further development.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site is occupied by a two-storey oast house in residential use, which is positioned on the western side of Water Lane. To the north of the building is a parking area for vehicles with a private garden indicated as being located to the west of the building with open land and countryside beyond. Further to the south are additional residential properties.
3. The appellant has indicated a desire to remove Condition No. 12 as applied to planning permission *Ref: TW/86/1546* dated 9 February 1987 (the 1987 permission). The condition removes permitted development rights for development within the curtilage of a dwellinghouse involving the enlargement, improvement or other alteration, as well as the erection or construction of a porch outside any external door of a dwellinghouse.
4. The appellant contends that the continued imposition of the condition is unreasonable and inconsistent with the treatment of other oast houses in the local area as well as the recent road widening scheme undertaken outside of

the appeal property, and represents a draconian and overly-zealous response to dealing with even the most minor alterations. The appellant regards the restriction to be excessive, bureaucratic and costly with the planning history indicating there to have been 8 separate planning permissions granted at the site for various developments since the approval of the 1987 permission.

5. In refusing permission for the removal of Condition No. 12, the Council has cited the appeal property as being a non-designated heritage asset where continued control over future minor works and alterations undertaken as permitted development would be warranted as a means of ensuring that the character, appearance and agricultural heritage of the original building would not be harmed.
6. As a consequence, the main issue is therefore whether the condition in dispute is reasonable or necessary having regard to the effect on the character, appearance and significance of the non-designated heritage asset.

Reasons

7. The Council has highlighted the importance and agricultural significance of Oast Houses to the Kentish Hop Industry, with their unique design and form seen as iconic within the landscape of the County. Whilst the Council accepts that it is entirely appropriate to secure new uses for these buildings, in so doing it is held to be important that their essential agricultural character should be preserved as far as is practicable. I agree in principle with this assessment of the importance and significance of Oast Houses and other related structures to the Kentish Hop Industry, and also that their classification as non-designated heritage assets is justified.
8. Paragraph 197 of the National Planning Policy Framework (the Framework) addresses the need to take into account the effect of an application on the significance of a non-designated heritage asset, in determining a development application. The paragraph continues by stating that *in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*
9. In this instance, the appeal property makes a clearly positive contribution to the Kent countryside and despite its established conversion to residential occupation, the building retains much of its traditional design character and therefore its significance as a non-designated heritage asset.
10. The appellant has drawn to my attention that the reason to Condition No. 12 does not make any specific reference to the building as being of historic interest, but merely refers to the need to regulate and control any further development. I acknowledge that the building would not have been classified as a non-designated heritage asset at the time of its conversion but agree with the Council's contention that consideration would have been given at the time of the 1987 permission to the future impact of alterations and extensions to the buildings with a mind to ensuring that the original character of the building would be retained.
11. In this regard, had permitted development rights not been removed, the building could have been subjected to a series of inappropriate or unsympathetic alterations and extensions over the years which would have

eroded its original character and that of the area. In principle, these concerns remain valid to the current day with the scope of works which could be undertaken as permitted development quite substantial in their scale and impact.

12. I acknowledge the appellant's statement that as the current custodian of the building, he has the desire to do the right things to support the continued occupation of the building as a home with regards making repairs and improvements, and to ensure that the building remains in a good condition. However, whilst I have no doubt that there is a degree of expense and inconvenience attached to the need to make applications for such works, along with some recent delays in the processing of proposals, given the significance of the building this must be viewed as a necessary measure. The retention of the condition ensures the continued protection of the original character of the building into the future, and as the condition runs with the land, beyond the appellant's current custodianship.
13. I have considered the suggestion that the condition could be amended to be limited to allow permitted development which is clearly not visible or audible from the passing road or public realm. However, the significance of the non-designated heritage asset is not just derived from its visibility from these locations, but its design and form associated with its historic and agricultural character, which is not solely dependent on whether any works undertaken could be seen or not.
14. In addition, I have had regard to the appellant's observation that permitted development rights exist on most properties in the High Weald Area of Outstanding Natural Beauty (AONB), and are exercised appropriately, implying that it is not a pre-requisite within an AONB. However, irrespective of whether or not this may be the case, in this instance it is not the location within the AONB which is the determining factor in the application of the removal of permitted development rights.
15. The appellant has referred me to a perceived inconsistency in approach by the Council with regards works having been undertaken on other Oast Houses or an absence of the removal of permitted development rights from other properties. In considering this, I am mindful that I do not have any details of the specific circumstances related to other developments, and indeed whether any required permissions were in fact either required or obtained. I cannot therefore draw any conclusions as to the comparability between the circumstances of the appeal property and the other referred to examples. In any event, irrespective of the approach for other properties, I must determine the proposal based on the material planning considerations as they present themselves in this circumstance, the reasoning for which I have already set out.
16. For the above reasons, I am satisfied that Condition No. 12 remains both necessary and reasonable as a means of regulating and controlling future development on the appeal site, in order to ensure that the character, appearance and significance of the non-designated heritage asset is secured. In this regard, the removal of the condition would conflict with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006 which requires development to respect the context of a site through design, scale and layout of buildings as

well as external appearance and use of materials. The proposal would also not accord with paragraph 197 of the Framework.

Other Matters

17. The appellant has referred me to the conduct of the Council with regards the processing of the planning application in this instance, and that there was a lack of any dialogue with the appellant during the course of the planning application in contrast with previous engagement with the Council. However, whilst if this has proved to be the case it is clearly unfortunate, it is not evident in respect of the submitted evidence that this would necessarily have made any difference to the outcome of the planning application. It has also not had any bearing on my determination of the appeal which has been premised upon the planning merits of the case.
18. I have also had regard to the appellant's reference to recent works related to the widening of the road outside of the property, but I am satisfied that this does not have any bearing on the significance of the non-designated heritage asset in this instance.

Conclusion

19. For the above reasons, the appeal must be dismissed.

Martin Seaton

INSPECTOR