
Appeal Decisions

Site visit made on 17 November 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 December 2020

Appeal A: APP/U1430/W/20/3255702

Shovers Green House, Shovers Green, Wadhurst TN5 7JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr George Pulman against Rother District Council.
 - The application Ref 2019/2847, is dated 20 December 2019.
 - The development proposed is conversion of existing outbuilding to dwelling.
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Appeal B: APP/U1430/Y/20/3255703

Shovers Green House, Shovers Green, Wadhurst TN5 7JY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr George Pulman against Rother District Council.
 - The application Ref 2019/2848 is dated 20 December 2019.
 - The works proposed are conversion of existing outbuilding to dwelling.
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Decisions

1. I dismiss both appeals and refuse planning permission and listed building consent for conversion of existing outbuilding to dwelling.

Main Issues

2. There is a main issue in both appeals as follows;
 - The effect of the proposal on the architectural or historic significance of the listed buildings and their settings within the High Weald Area of Outstanding Natural Beauty including the effect of light spillage. (Reasons for Refusal 2, 3, 4, 5 and 7)
3. In Appeal A only there are further main issues;
 - The effect of the proposal on highway safety and the free flow of traffic on the B2099. (Reason 6)
 - Whether the proposal would provide an acceptable standard of accommodation and amenity space for prospective occupiers. (Reasons 8 and 9)
 - Whether there are other considerations in the planning balance and the weight to be attached to them. (Reason 1)

Reasons

Policy Background

4. Core Strategy Policy OSS4 sets out general development considerations including at (iii) respecting and not detracting from the character and appearance of the locality. Rural Area Policy RA2 is the general strategy for the countryside, and at (iii) restricts uses to that which support local agriculture, economy or tourism, and at (viii) seeks to retain traditional historic farm buildings by an appropriate re-use in accordance with Policy RA4 which lists a hierarchical approach to uses and sets out at (ii) and (iii) detailed requirements. Development in the countryside is the subject of Policy RA3 which under criterion (iii) limits the types of dwellings permissible, and all development is not to adversely impact on the landscape character as stated at (v). Section 17 contains policies on the environment; EN1(i) and (vii) seek the protection of the High Weald Area of Outstanding Natural Beauty and the dark night sky, EN2(iii) seeks to preserve locally distinctive vernacular building forms, and EN3 sets out requirements on design quality. Road safety is to be safeguarded under Policy CO6(ii).
5. Development and Site Allocations Local Plan Policy DEN1 seeks to maintain the natural and built landscape character, while Policy DEN2 is specific to the High Weald Area of Outstanding Natural Beauty. Environmental pollution is to be avoided as set out in Policy DEN7 with lighting to be necessary and the minimum required, designed to minimise light pollution. Policy DHG3 adopts the Nationally Described Space Standards while Policy DHG7(i) requires appropriate and proportionate levels of private external amenity space. Extensions and alterations to existing dwellings will be permitted as stated in Policy DHG9, where (ii) they respect and respond positively to attributes of the dwelling and (v) they are consistent with the character and qualities of historic buildings. This policy appears relevant since the subject building is in use as an outbuilding to the dwelling.
6. The Ticehurst Neighbourhood Plan was 'made' in July 2019 and is part of the Development Plan for the appeal site. Policy H1 states the spatial strategy to focus all development on the villages with no residential development outside those boundaries unless a countryside location is essential. Policy H5 is specific to the design of new buildings rather than alterations and re-use but does state the need to reduce the impact of light pollution. The natural beauty of the designated High Weald area is to be conserved and enhanced as stated in Policy R1. Policies E2 and E3 state support for tourism and recreation enterprises and the promotion of agricultural diversification.
7. Paragraph 108b) of the 2019 National Planning Policy Framework seeks to ensure a safe and suitable site access. Paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities and Paragraph 127 sets out requirements. Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues, and the scale and extent of development within these designated areas should be limited. Paragraph 193 states that when considering the impact on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

8. Sections 16(2) and 66(11) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Heritage Assets, Character and Appearance

9. The building is a solid 9" brick structure in English garden-wall bond with piers expressed inside and out, and with only a single window opening to the north end and a full width opening to the south. The pitched roof has a plain tile covering with bonnet tiles to the part-hip ends, the remaining lower part of the gable being infilled with timber boarding. It displays the simple, unobtrusive architectural form of a domestic as opposed to an agricultural building which sits well with the converted buildings nearby and the previously altered and enlarged former farmhouse, the principle listed building. There is considerable significance in the form of the building and its relationship with the farmhouse and hence that listed building's setting as a former farmstead. The open south side facing the other buildings signals its use as garaging or garden machinery storage ancillary to the group, and there is moderate historic and evidential significance as a result, being adapted to the changed needs for garaging for a motor car as opposed to stabling.
10. Internally there has been change over time, particularly to the roof structure, with sarking felt added to one half and replacement timbers inserted, although tie beams remain, and the boarded ends have halved-timbering visible. Even with the later interventions, there remains considerable historic and evidential significance in places.
11. From an assessment of both the external and internal arrangements, the building is worthy of retention as part of the group centred on the former farmhouse and it presents itself as a simple rural building set within an open former farmstead, with only limited domestic features, and backing onto agricultural land. Whilst the preservation of listed buildings does not rely on public views, significant weight attaches to its prominence in the open views from along the main road. Policy RA4 on the re-use of traditional historic farm buildings is appropriate as a result.
12. There are however identified shortcomings in the structure and roof finishes that lead the Surveyor employed by the appellant to estimate a limited safe life were nothing to be done. Although it behoves the owners of listed building to preserve them for the public benefit, paragraph 185 of the Framework recognises the importance of a viable use, and where harm might be caused, paragraphs 195 and 196 both refer to viable uses. It is acknowledged that, notwithstanding the duties placed on owners, it is reasonable to consider a use that would generate funding for repairs and ongoing maintenance. From the information available and from what was seen at the site inspection, the present use as storage, garaging and the like, would not guarantee the continued presence of the building as a positive feature of the site and the wider natural and built landscape.
13. However, the proposals are for radical changes to the number and nature of openings in both the walls and the roof, with 3 windows placed one in each bay along the highly visible west side wall and 3 rooflights in the east roof-slope. The large opening to the south end, which is so characteristic of the storage use, whether agricultural or domestic as garaging, would be infilled with a

glazed frame and door. Whilst the effect on fabric would be limited, this work would adversely affect the presentation of the simple ancillary building, introducing harmful features which would erode the robust form and simple detailing.

14. The formation of a domestic curtilage, which has not been fully detailed but is suggested to comprise garden area delineated by post-and-rail fencing, would risk introducing domestic paraphernalia to clear view alongside the driveway and would tip the balance of character away from open land visually linked with the agricultural land to the east and the open former farmstead land to the west, and would form a link with the other residential and holiday uses to the south, consolidating a domestic character and appearance towards the road.
15. Taken together, the changes proposed would cause less than substantial harm to the significance of the listed building including setting, and the balance described in paragraph 196 of the Framework will be considered later in this Decision. The appellant remarks on the lack of a Conservation Officer's formal comments and refers to them being met on site at an early stage when no adverse comments are said to have been made. Be that as it may, the putative Reason for Refusal in this failure case does allege harm and the 1990 Act requires a fresh judgement at Appeal stage.
16. The present building would be most unlikely to generate significant or long-lasting light emissions, although there does not appear to be any control in place to prevent the installation of external lighting. Residential occupation would likely result in greater use of lighting internally with the roof lights risking break out and hence pollution. That risk could be mitigated to an extent by conditions, but such control of behaviour or internal blinds would be difficult to enforce. External lighting could be prevented other than on application, which would allow a level of control to be exercised with a better chance of enforcement. Overall, the change of use of the building as proposed would risk harmful light pollution which would harm the rural and natural beauty of the area.
17. The harm identified to the building, the wider setting and to the night sky would adversely affect the landscape character of the Area of Outstanding Natural Beauty, which in accordance with the Framework, is a matter to which great weight should be attached. This is due to the prominent position of the building and its present agricultural appearance, and in particular, the formation of a domestic curtilage would bring about activity and change to the nature of the land.
18. Local Plan Policy RA4 and Neighbourhood Plan Policies E2 and E3 could permit some other change of use and consequent building works, which could have similar physical effects, and hence it is appropriate to weigh these options in the Planning Balance after consideration of the remaining main issues.

Highway Safety

19. Although the visibility on leaving the site is good in both directions, due to the slight bend in the road, the access from the bellmouth narrows soon after the crossover, with the driveway being insufficient to allow 2 vehicles to pass comfortably. The pre-existing risk is of an approaching vehicle having to stop on the highway to allow a vehicle to leave the site, or a worse case of them meeting part-way in and one having to reverse. The good inter-visibility does

however already limit the severity of the likely outcome. Nevertheless, the risk would be exacerbated through a change of use of the building away from ancillary garaging or storage for the house, but would occur with other more policy-compliant uses.

20. There is sufficient room to widen the access over a short distance to allow 2 vehicles to occupy the bellmouth, although the Council consider this to be harmful to the landscape character. Having mind to the open nature of the verge and the area immediately inside the boundary, the degree of widening would be limited and subject to conditions covering blue and red-edged land, need not be harmful. Since the greater risk concerns those approaching from the east being stationary while a vehicle leaves the site, a small lay-by style slip road could suffice, subject to ownerships and agreements, and could assist operation of the bus stop.
21. On this issue the conclusion is that improvements to the current situation could be gained and may well be necessary for other uses for the building higher up the Policy RA4 hierarchy. The requirements of Policy CO6(ii) can be met through acceptable works secured by condition.

Living Conditions

22. The Council have adopted the Technical Housing Standards – Nationally Described Space Standard and table 1 of that document requires a minimum 50m² for a single storey, 1-bedroom 2-person dwelling, with built-in storage of 1.5m². The Council states that the gross internal area is 48.5m² with no storage shown. Whilst not a requirement of the Standard, through the more recently added footnote 4, the appellant has supplied a furnished layout for the bedroom which indicates sufficient space for storage to be added without affecting the utility of the room, and the combined living and kitchen appears useable. The Space Standards have been devised to ensure the quality of provision, but in the circumstances of the re-use of a listed building, the limited shortfall could be acceptable were residential use found to be the optimum viable use to secure its future.
23. The nature and effect of the external garden space has been considered in the first main issue, and the suggested post-and-rail fencing, in addition to exposing domestic paraphernalia, would provide limited privacy and security. The option of a more private and secure form of enclosure would risk causing harm to the character and appearance of the area in this prominent location. However, the area to the south, whilst apparently not the 10m sought, would augment that to the north and could provide a more private area outside the glazed doors without undue or intrusive enclosure.
24. To conclude on this issue, some limited dispensation could be warranted in the sizes of both the dwelling and the amenity space and this is not a matter that should result in the appeal being dismissed.

Other Considerations and Planning Balance

25. The building is curtilage listed and worthy of retention. Due to the defects identified, it is reasonable to consider the optimum viable use as being more than garaging or a store distant from the main dwelling, in order to avoid total loss, or if works are unduly delayed, increased costs.

26. Policy RA4 on traditional historic farm buildings applies but is not restricted to listed buildings. Nevertheless, the hierarchical approach should be adopted, although level (a) of a continued farm-associated or farm-related use is not achievable. The level (b) non-agricultural uses are stated to *include* workshops, offices and tourism, and the appellant has discounted the first two due to a perceived adverse effect on setting through parking and activity.
27. It is feasible that a necessarily small workshop or office use would not entail the same degree of harmful fenestration, and would certainly not result in the formation of a domestic curtilage, areas where the proposed residential use has been found wanting in both listed building and landscape terms. There has been a move to home-working during the present pandemic as asserted by the appellant, and it is unclear whether there will be a full return to commuting and large centralised office working. However, not all homes and not all activities are suitable for such use long-term and small localised facilities could be welcome.
28. On the other suggested level (b) use is tourism and there is already a holiday let to the south. Although the appellant is unsure how it is performing, and these are difficult times for tourism and hospitality, the site within the Area of Outstanding Natural Beauty and the curtilage of a listed building would be an attractive proposition, and the building could be made into a welcoming short-term holiday let without the degree of harm stemming from residential use.
29. The appellant refers to an intended use by a family member although making clear that this is not to be an annexe, and the proposal should be considered as open market housing intended to result in the funding sought for repairs.
30. The Council are unable to demonstrate a 5-year supply of housing land as required by the Framework and therefore paragraph 11d) is to be considered, as although the proposal does not accord with Development Plan policies on the location of housing, those policies should be regarded as being out-of-date. However, for the reasons set out in this Decision, the policies of the Framework regarding the Area of Outstanding Natural Beauty provide a clear reason for refusing the development as harm would be caused, with great weight given to conserving and enhancing the landscape and scenic beauty of the area. In accordance with footnote 6 to paragraph 11d)i, the 'tilted balance' does not apply.
31. With regard to the effect on the listed building and setting, the level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies, and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The provision of open market housing in an area without the required level of supply would be a public benefit and the site is not so distant from facilities as to be remote, and whilst limited, there is a regular bus service stopping directly outside the gate.
32. The balance in both the planning and the listed building appeal is however that the benefit of a single dwelling in this location would not outweigh the harm, and the lack of evidence on alternative less harmful uses providing the required funding adds to the conclusions. As a result, the policies of the Framework on designated heritage assets provide a further clear reason for refusing development, adding weight the non-applicability of the 'tilted balance'.

Conclusions

33. The proposed residential use would be contrary to policies RA2(iii), RA3(iii) and H1 due to the location, with the harm to the character and appearance of the area being contrary to Policies RA3(v), OSS4(iii), EN1(i)(vii), DEN1, DEN2, DEN7 and R1. The harm to the listed building as a traditional farm building would not accord with Policies RA4, EN2(iii), EN3 and DHG9(ii)(v). The requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 would not be met, and there is not sufficient justification for the harm caused to the listed building and setting.
34. Whilst highway safety could be ensured by condition and the limited failure to accord with the space standards could be permitted if it allowed the preservation of the listed building, the proposal has not been shown to be the optimum viable use having regard to the nature of the building and its surroundings. For the reasons given above it is concluded that both appeals should be dismissed, and planning permission and listed building consent refused.

S J Papworth

INSPECTOR