
Appeal Decision

Site visit made on 16 August 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/C1435/W/20/3264403

Land adjacent to Whitethorn, Back Lane, Waldron, Heathfield TN21 0NH

- 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 Steven Taylor against the decision of Wealden District Council.
 - The application Ref WD/2019/0756/F, dated 24 April 2019, was refused by notice dated 11 September 2020.
 - The development proposed is conversion and change of use of stables to holiday let.
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Decision

1. The appeal is allowed and planning permission is granted for conversion and change of use of stables to holiday let at Land adjacent to Whitethorn, Back Lane, Waldron, Heathfield TN21 0NH, in accordance with the terms of the application, reference WD/2019/0756/F, dated 24 April 2019, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Steven Taylor against Wealden District Council. This application is the subject of a separate decision.

Procedural Matter

3. Following the Council's decision, a revised National Planning Policy Framework ('the Framework') was published. The main parties have had an opportunity to comment on the implications for the appeal and I have taken their views into account.

Main Issue

4. The main issue is whether the proposal is acceptable in policy terms, with particular regard to the nature of works necessary to convert the building.

Reasons

5. The appeal relates to a vacant stable building and land within its curtilage on the east side of Back Lane. The site lies in the countryside, outside of defined development boundaries. Policy GD2 of the Wealden Local Plan (1998) (WLP) stipulates that development will be resisted unless it is in accordance with specific policies in the Plan.

6. Policies TM1 and DC7 of the WLP are cited on the decision notice as being relevant to the application. Policy TM1 is supportive of new tourist attractions or facilities, provided that proposals respect the character and environmental quality of the area and make an important contribution to diversifying and upgrading the tourist attractions and facilities in the District. Policy DC7 sets out various criteria for the conversion of rural buildings in the countryside to non-residential uses, including tourist accommodation. Of particular relevance to the Council's case is criterion (1) which states that the building should be of sound construction and capable of conversion without significant rebuilding or extension.
7. The application is accompanied by a letter from a structural engineer who considers the building to be of 'sound construction' and structurally suitable for conversion and re-use. This advice contains caveats for additional investigative work to be undertaken, including ground bearing floors to be checked for cracking, trial pits to be dug to expose the extent of the existing ground bearing slabs and foundations, and the overall stability of the building to be verified on site by ensuring intermediate partitions and roof tie members are effectively fixed to the external walls. These investigations could potentially lead to the need for additional works, but there is no compelling evidence to persuade me that the primary structure of the building cannot be retained in substantially the same form as existing. The selective replacement of roof timbers does not take the scheme outside the scope of a conversion.
8. Applying the other criteria within WLP Policy DC7, the proposed design would reflect a converted rural building and the new lean-to would be small scale and in keeping with the host structure. The existing vehicular access onto Back Lane would be re-used and parking would be confined to that part of the site closest to the road. Subject to conditions to control external lighting and to secure details of hard and soft landscaping, external materials and window/door joinery, there would be no material harm to the rural setting of the building or the High Weald Area of Outstanding Natural Beauty (AONB).
9. A single 2-bed holiday let would be low key and the nature and intensity of the use would be sympathetic to the rural location and the living conditions of nearby residents. Although occupants of the new holiday accommodation would be reliant upon the private car, the number of daily comings and goings would, in all likelihood, be no greater than a stabling use. Consequently, the proposal would not have an unacceptable impact on the local highway network.
10. The Council has expressed concerns over the loss of the lawful equine use on the site and also the viability of the proposed holiday let. However, such arguments are without policy basis. Nowhere in WLP Policy DC7 does it suggest that buildings have to be redundant in order to facilitate conversion to alternative uses. Neither is there any policy test requiring proposed development to be financially viable. Stabling generates income for farriers, vets and feed suppliers amongst others, but equally a holiday let will need to be cleaned and maintained and staying visitors will spend money in local pubs and shops. In this way, the appeal scheme would support the rural economy and accord with the local plan aspiration, set out in paragraph 10.8 of the WLP, to provide small-scale, locally run enterprises in the countryside to service the needs of visitors. The parish council argues that there are other holiday lets in the locality, but this does not mean that permission should be refused, as the planning system does not exist to prevent competition.

11. The appellant contends that limited weight should be attached to the WLP due to the fact it was adopted 23 years ago. However, development plan policy should not be deemed out-of-date simply by reason of the age of the plan. The Framework states that due weight should be given to policies, according to their degree of consistency with the Framework. Paragraph 84 of the Framework supports the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; it also supports sustainable rural tourism and leisure developments which respect the character of the countryside.
12. There is a reasonable degree of consistency between the policies of the WLP and the Framework inasmuch that both seek to promote tourism. However, national policy provides greater flexibility in that it does not prohibit works that go beyond what might be expected for a building conversion. Furthermore, it accepts that sites to meet local business 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 – as in this particular case.
13. My overall conclusion, having regard to the above, is that the proposal complies with Policies GD2, TM1 and DC7 of the WLP and national policy contained in the Framework. Notwithstanding the Council's concerns, there are no reasons to justify a refusal of planning permission in this case.

Habitats Regulations Assessment

14. The officer report to committee set out an assessment of the potential impacts on European protected sites, notably the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).
15. The qualifying feature of the SPA is the concentration of Dartford warbler and European nightjar. The principal threat to these ground nesting birds is through recreational disturbance. However, visitor surveys carried out for the Council demonstrate that it is residents living within 7 km of the Ashdown Forest who are likely to visit it. The appeal site lies beyond this radius and this indicates that the proposal does not provide a pathway of effect for recreational disturbance.
16. The qualifying features of the SAC are the presence of dry heath, North Atlantic wet heath and great crested newts. The heathland habitats are particularly sensitive to changes in air quality. Exceedance of critical values for air pollutants may, through changes to the chemical substrate, cause the loss of typical heathland species. The potential for adverse effects from vehicle emissions has been explored as part of the process of preparing a new local plan¹ and Natural England is satisfied that the quantum of growth being proposed would not harm the integrity of the SAC. The appeal scheme is very substantially smaller and therefore the same conclusion would apply.
17. Based on the above information, the proposal would not have an adverse effect on the integrity of European protected sites, either on its own or in combination with other plans and projects. Appropriate assessment is not required.

Conditions

18. In addition to the standard commencement condition, I have attached a condition specifying the approved plans, to provide certainty. In the interests of

¹ This local plan was withdrawn prior to adoption but the evidence base and consultee advice are still relevant

protecting the character and appearance of the area, conditions are necessary to secure details of landscaping, external materials and window/door joinery. For the same reason, conditions are required to control external lighting and to ensure the removal of a metal shipping container from the site. The site is prominent from the road and the future exercise of permitted development rights could harm the scenic qualities of the AONB. A condition to remove rights under Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 is therefore justified.

19. The proposal is being approved on the basis that it is providing holiday accommodation and therefore conditions are necessary to ensure that it is used as such and not as a person's sole or main place of residence. To facilitate monitoring and enforcement, I have attached the Council's suggested condition to ensure that a register is kept of all guests using the holiday let.
20. To discourage parking on the highway, a condition is necessary to require the provision of the parking and turning area shown on the plans. I have also attached a condition requiring a scheme of biodiversity enhancement, to provide a net gain for biodiversity in line with the Framework.
21. The Council has suggested a condition to ensure that any future air source heat pump installed on the site complies with the Microgeneration Certification Scheme Planning Standards. However, this requirement is already set out in Part 14, Class G of the above Order and as such the condition is unnecessary.

Conclusion

22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Robert Parker

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 plans: Drawing Nos. 2217/3, 2217/H1 Revision D, Phase One Habitat Survey Report, Survey for Bats, Structural Appraisal, Justification for Re-using Existing Structure and Bat Survey (29 July 2020).
- 3) The development hereby permitted shall not be occupied until a scheme for the enhancement of the site for biodiversity purposes has been submitted to and approved in writing by the local planning authority. The submitted details shall accord with paragraph 6.2.4 of the submitted Survey for Bats Report and it shall include timescales for implementation and future management. The scheme shall be implemented in accordance with the approved details and thereafter so retained.
- 4) Notwithstanding drawing 2217/H1 Revision D, the development hereby approved shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall define the extent of garden area (and its means of enclosure) to serve the holiday accommodation, hard surface finishes and soft landscape planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and densities. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of 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, unless the local planning authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner.
- 5) Before works to install new materials to external surfaces of the building are undertaken, samples of those materials (including finishes) shall be approved in writing by the local planning authority. Material samples shall be made available for inspection on site and adequate notice given to the local planning authority who will arrange inspection. Development shall be carried out in accordance with the approved materials.
- 6) No new or replacement doors or windows shall be installed until details of the timber joinery and finishes have been submitted to and approved in writing by the local planning authority. The submitted plans shall be provided at an appropriate scale to show elevations and sections through sills, heads, frames and opening lights. Development shall be carried out in accordance with the approved details and thereafter retained.

Conditions continued over the page ...

- 7) Within 2 months of the completion of the development hereby approved, the structures indicated to be removed on drawing numbered 2271/H1 Revision D shall be permanently removed from the site.
- 8) The development hereby permitted shall not be occupied until the parking and turning area shown on drawing no. 2271/H1 Revision D has been provided, and this area shall be retained thereafter.
- 9) The development hereby permitted shall be used for holiday accommodation only and shall be used for no other purpose (including any other purpose within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any Order revoking and re-enacting that order with or without modification).
- 10) A register of all guests using the holiday let shall be kept, including dates and durations of each stay by each guest, and the register shall be made available for inspection by the local planning authority at 48 hours' notice.
- 11) The development shall not be occupied as a person's sole or main place of residence.
- 12) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.
- 13) 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 buildings, structures or works as defined within Part 1 of Schedule 2, Classes A to E inclusive of that Order, shall be erected or undertaken on the site.

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