



Appeal Decision

Site Visit made on 23 June 2021

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2021

Appeal Ref: APP/C1435/C/20/3265024

**The Armoury at Oast House Cottage, Gun Hill, Chiddingly, East Sussex
TN21 0JU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Adam Thorpe against an enforcement notice issued by Wealden District Council.
- The notice was issued on 26 November 2020.
- The breach of planning control as alleged in the notice is without planning permission, change of use of the building shown coloured red on the attached plan ('the Armoury') from use as a granny annexe to use as a separate dwellinghouse.
- The requirements of the notice are to:
 - (i) Stop using the Armoury as a separate dwelling
 - (ii) Remove all kitchen equipment, furniture, fixtures and fittings from the Armoury
 - (iii) Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements.
- The periods for compliance with the requirement is: six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. I note that the appellant refers to the existing property as Oasthouse Cottage but that the enforcement notice refers to Oast House Cottage. As it is clear to the property to which it relates, for consistency I will use the name within the enforcement notice in my decision.
2. Planning permission was granted under reference WD/2013/1325 for the conversion of the garage/store building to a granny annexe at Oast House Cottage. I understand that comprises the building subject of this appeal. The appellant suggests that the enforcement notice relates to the breach of condition 3 of that permission. However, the allegation and reference to 171A(1)(a) within the enforcement notice mean that it seeks to deal with a breach of planning control. As the allegation comprises a material change of use it constitutes development as defined by the Town and Country Planning Act 1990. Consequently, the allegation is a breach of planning control. This does not materially affect the merits of the proposal under the ground (a) appeal, so proceeding on this basis will not cause injustice to the appellant. Therefore, I will consider the appeal on this basis.
3. A revised National Planning Policy Framework (the Framework) was published during the course of the appeal. The Council and appellant were given the

opportunity to comment and I have taken its contents into account in coming to my decision.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

4. The main issues are:

- whether the dwelling is in a suitable location in respect of its relationship to nearby settlements;
- the effect of the dwelling on the intrinsic character and beauty of the landscape; and
- whether the use of the Armoury as a separate dwelling affects the setting of the listed buildings at Gun Cottage, Farthing Cottage and Gatehouse Farmhouse.

Reasons

Location

5. The Armoury comprises a former outbuilding within the grounds of Oast House Cottage, between that dwelling and the neighbouring field. It has planning permission for use as a 'granny annexe' in association with Oast House Cottage but has more recently been occupied as an independent dwelling. Neighbouring development comprises a number of houses and The Gun public house. This small group of dwellings and public house are separated from surrounding settlements by open countryside. As a result, this is an isolated location.
6. The Framework states that isolated homes in the countryside should be avoided except in certain circumstances. My attention has not been drawn to any such circumstances that may apply in this instance. It has not been suggested that there is an essential need for a rural worker to live near their place of work. The building was not previously redundant or disused. Its use as a dwelling does not enhance its immediate setting, given that the appearance of the building itself hasn't changed and it is likely to be surrounded by additional residential paraphernalia. It is an outbuilding so would not subdivide an existing dwelling and it is not of an exceptional quality of design.
7. For these reasons, I conclude that the dwelling is not in a suitable location in respect of its relationship to nearby settlements, contrary to the Framework. In addition, it is contrary to Policy GD2 of the Wealden Local Plan (LP) that seeks to resist new dwellings outside development boundaries.

Landscape

8. The Armoury is located within the Low Weald countryside that comprises rolling fields interspersed with development. The permitted use as ancillary accommodation to Oast House Cottage means that there have been no physical changes to the building itself to enable its occupation as a separate dwelling.
9. There are, however, additional comings and goings from the property associated with this use. There is additional residential paraphernalia, albeit a limited amount, around the building, including additional parking. The Council have suggested conditions to remove rights to alter or extend the building or

provide outbuildings within its curtilage and restricting provision of means of enclosure. Nevertheless, it is a very small dwelling on the edge of the group of larger dwellings, such that its subdivision from the main house would appear somewhat incongruous within the countryside.

10. For these reasons, I conclude that the use of The Armoury as a separate dwelling has had a modest material effect on the intrinsic character and beauty of the countryside. Consequently, it conflicts with Policies SPO1 and SPO13 of the Wealden District Core Strategy Local Plan (CS), EN8, EN27, DC8, DC17 and DC19 of the LP or the Framework that seek to protect the distinct landscapes of the district, including groups of buildings, and seek high quality, safe and attractive living environments for communities.

Listed buildings

11. The Armoury is located at the end of the group of dwellings, with the public house slightly separated from them by a field. Three of those dwellings are listed.
12. Gun Cottage is directly opposite Oast House Cottage and comprises a modest timber framed cottage with plaster infilling and thatched roof. Farthing Cottage is located next to Oast House Cottage on the opposite side from The Armoury, comprising a two storey eighteenth century brick building with tiled roof. Gatehouse Farmhouse is a brick and tile house with pentice roof on the end of the building furthest from The Armoury and separated from Farthing Cottage by a pair of semi-detached houses. All three listed buildings are located within large gardens and behind tall hedges that substantially obscure their facades in views from the road.
13. The significance of the listed buildings in terms of this development derives from their scale and appearance set within large gardens and the wider group of similar buildings at Gun Hill.
14. When used as an annexe, The Armoury would have appeared as an ancillary and subservient outbuilding on the entrance to Oast House Cottage. However, due to the increase in domestic paraphernalia around the building, including parking, use as independent living accommodation has resulted in the building appearing as a separate small dwelling. It would be possible to limit further development that would normally not require a planning application by condition, which could reduce the risk of further appearance of separation. Nevertheless, this use results in an additional small dwelling that does not reflect the scale of surrounding houses, so would affect the setting of the nearby listed buildings.
15. For these reasons, I conclude that the use of the Armoury as a separate dwelling harms the setting of the listed buildings at Gun Cottage, Farthing Cottage and Gatehouse Farmhouse. As a result, its occupation as a separate dwelling affects the significance of those properties as listed buildings, albeit that harm is less than substantial. As such, the development does not comply with paragraphs 194-200 of the Framework that seek to resist harm to the significance of designated heritage assets, including listed buildings.
16. Paragraph 202 of the Framework establishes that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public

benefits of the proposal, including securing its optimum viable use. The only public benefit in this instance is the addition of a single dwelling to the supply of housing. However, that benefit is minimal and cannot outweigh the identified harm to the setting of the nearby listed buildings.

Other matters

17. My attention has been drawn to a number of other developments within the vicinity of The Armoury. Limited information has been provided in relation to these other permissions. However, they appear to relate to developments adjacent to the settlement of Horam, where there is a range of local services and facilities. Consequently, that new development is not isolated.
18. I note that permission has been granted for additional development at The Gun public house relating to that public house use, but that is of a different form and type such that it is not comparable to the dwelling at The Armoury.
19. The Armoury is highly insulated and has been provided with appropriate drainage facilities. It provides a modest and relatively affordable home for its occupant. I understand that the occupant contributes toward the life of the nearby community. The dwelling contributes in a small way to housing supply in an area where the Council are unable to demonstrate a five year supply of housing sites. I note Council Tax has been paid for the dwelling.
20. Policy WCS14 of the CS sets out that where development accords with policies in the Local Plan, they should be approved without delay. As such, given there are conflicts with a policies within the LP, the development does not comply with Policy WCS14 of the CS.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is one such material consideration. The presumption in favour of sustainable development at paragraph 11 of the Framework states that, where policies which are most important for determining the application are out-of-date, for example where the Council cannot demonstrate a five year supply of housing sites, permission should be granted unless the application of policies in the Framework that protect assets of particular importance, such as heritage assets, provide a clear reason for refusing the development proposed.
22. In this case, I have concluded that the dwelling would harm the setting of heritage assets contrary to policies within the Framework. This is a clear reason for refusing the development proposed, as set out in paragraph 11d)1. of the Framework. As a result, the development does not benefit from the presumption in favour of sustainable development.

Conclusion

23. I have concluded that the dwelling is in an isolated location and has resulted in harm to the intrinsic character and beauty of the countryside and the setting of listed buildings. Consequently, it is contrary to relevant policies of the CS and LP that comprise the development plan. Given those conflicts, the proposal is contrary to the development plan as a whole. Whilst this is a relatively affordable dwelling that contributes to housing supply and the occupant contributes to the community, those factors do not outweigh the conflict with development plan policies. The development does not benefit from the

presumption in favour of sustainable development set out in the Framework. As such, I conclude that the appeal under ground (a) should be dismissed and the deemed application for planning permission should be refused.

Formal Decision

24. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

AJ Steen

INSPECTOR