



Appeal Decision

Site visit made on 22 September 2021

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021.

Appeal Ref: APP/L2250/W/20/3271509

Oak Ryse, Forge Hill, Acrise CT18 8LH

- 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 and Mrs N Moss against the decision of Folkestone and Hythe District Council.
 - The application Ref Y19/0781/FH, dated 4 July 2019, was refused by notice dated 12 May 2020.
 - The development proposed is the conversion of an existing barn to a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined by the Council the Places and Policies Local Plan has been adopted which supersedes the Saved Local Plan Review policies. Both parties make reference to the emerging plan, in their cases, and in particular Policy E7, which has not changed since its adoption. No party would therefore be prejudiced by my determining the appeal on this basis.
3. On 20 July 2021 the Government published its revised National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on the implications of this on their cases.

Main Issues

4. The main issues in this appeal are: Whether the barn is suitable for conversion to residential use having regard to local and national planning policy; and the effect of the development on the Kent Downs Area of Outstanding Natural Beauty (AONB) and the settings of Oak Ryse and Park Cottage which are Grade II listed.

Reasons

Suitability for conversion in policy terms

5. The appeal site comprises an agricultural building dating from around 1995 which was originally used as a lambing shed. It is, however, no longer in agricultural use nor is required as such, as it has, for some time, been used for domestic storage in conjunction with Oak Ryse. Oak Ryse forms one half of a pair of Grade II semi-detached cottages and sits adjacent to the agricultural

- building in question. The cottages are thought to have originally formed part of the Acrise Place estate (which is Grade II*) serving as staff quarters.
6. As set out in Policy SS1 of the Shepway Core Strategy (2013) (CS), the spatial strategy for Folkestone and Hythe District Council directs most new development towards existing settlements. Development in the open countryside, defined as anywhere outside of these settlements, will only be allowed exceptionally as per Policy CSD3. The agricultural building, for these purposes, falls within the open countryside.
 7. Most relevant to this appeal is part f) of policy CSD3 which allows the conversion of buildings that contribute to the character of their location. The appeal building is a generic, modern, agricultural building with a functional appearance and form. It adds little, if anything, to the local character of the surrounding area which, whilst rural, is intrinsically linked to the Acrise Place estate. As noted above the historic use of the adjacent cottages was that of staff quarters for Acrise Place. As such, it is not a building which contributes to local character for the purposes of Policy CSD3 f).
 8. Policy E7 of the Places and Policies Local Plan (2020) (LP) also refers to the reuse of rural buildings. However, it only allows this where it supports the development and expansion of the rural economy or tourist industry subject to various criteria. It goes on to state that where a rural building can accommodate a business reuse in accordance with the policy, proposals for conversion to a residential use, which is not ancillary to a scheme for business reuse, will need to be justified through a statement detailing the efforts made to secure a business reuse in the first instance and, in addition, would involve the re-use of a traditional building of architectural or historic merit that is worthy of retention.
 9. The proposal before me is for a conversion of a rural building to residential use and this would be a self-build project. It is of permanent and substantial construction and with sympathetic conversion could accommodate a business reuse. There is, however, no evidence before me that this has been explored in accordance with the requirements of Policy E7 as set out above. In addition to this, the agricultural building, for the reasons previously stated, is not a traditional building of architectural or historic merit. The proposal would therefore conflict with Policy E7.
 10. I accept that some business uses of the building, given its sensitive location in terms of heritage and landscape considerations, might be unsuitable. However, an office/workshop, or visitor accommodation to support the tourism industry in this area could be suitable options for the reuse of the building and should be explored in light of Policy E7.
 11. The appellant makes the case that Policy E7 is not applicable as the building in question is in an ancillary residential use rather than an agricultural use. However, I consider it to be a 'rural building' for the purposes of Policy E7 having been erected for such a use. I therefore find no reason to disregard this policy in the circumstances. There is also nothing before me to confirm its lawful use.
 12. The Framework supports the reuse of redundant or disused buildings in the countryside (paragraph 80c). However, that does not mean that the finer detail set out in the above development plan policies concerning the re-use of

buildings in countryside, of which E7 is recently adopted, and all of which are broadly consistent with the aims of the Framework in terms of protecting the countryside and reusing buildings, should be set aside. It is right that planning policies are responsive to local circumstances and the development plan will be reflective of that.

13. The appellant seeks support for their proposal from paragraph 80d) of the Framework. However, here subdivision of an existing residential building should be taken to mean the subdivision of a dwelling as one physical building, rather than the subdivision of a wider residential unit encompassing a dwelling and other buildings into separate dwellings. The appeal referred to by the appellant in Exeter¹ follows this reasoning as it concerned the subdivision of a two-storey building with an attached annexe into two separate dwellings. It is also materially different to the appeal before me which concerns a semi-detached cottage and detached former agricultural building.
14. For the reasons given, and taking all of the above points into account, I find that the appeal building is not suitable for residential conversion as it would conflict with Policies SS1, SS3 and CSD3 of the CS and E7 of the LP which, broadly speaking, seek to protect the open countryside whilst supporting the rural economy or tourist industry.

AONB

15. The existing building and its overall form and siting would largely remain. It is currently of concrete and breeze block construction with steel cladding but this would be replaced with vertical timber louvres to the elevations and a new standing seam roof. Whilst the appearance of the building would change, it is not harmful in appearance at present being suited to its predominantly rural surroundings. Whilst windows would be inserted it would retain an agricultural/rural aesthetic overall, and not become overly domesticated in appearance. A modest flue would be sited on one side and would not dominate.
16. At the time of my site visit the land around the building was clearly used informally as garden associated with Oak Ryse. The building also has its own access drive where cars can park. Whether or not such use is lawful is not a matter for consideration under a s78 appeal. Nevertheless, my observations confirmed to me that light domestic use of the land as a result of the conversion would not be harmful to the surrounding landscape. Although a larger dwelling than Oak Ryse and Park Cottage would be created the building is set well back from these so it would not overwhelm. It also already benefits from much established screening, and as previously stated, is in-situ in broadly its current siting and form.
17. For these reasons I find no harm to the Kent Downs AONB and consequently no conflict with Policy CDS4(e) of the CS which seeks to protect and conserve such areas.

Heritage

18. The appeal site falls within the settings of the Grade II listed cottages Oak Ryse and Park Cottage being located just adjacent to these. The grounds of Acrise Park, to which these cottages historically belonged, would likely have had a predominantly open and rural character. It is also reasonable to surmise that

¹ APP/U1105/W/17/3191044

the area where the cottages are located would have had a more functional character than perhaps the more formal grounds to the country house, it being the former location of staff accommodation. This open, rural and functional character remains as the setting to these cottages today and as such contributes to their historic significance.

19. The current agricultural building which forms the basis of this appeal does not appear out of place in the setting to these listed cottages it being agricultural and functional in appearance. Its sensitive conversion, as discussed above, would mean the building would retain sufficient agricultural/rural character so as to conserve the settings of these listed cottages and the ability to appreciate their historic significance.
20. I therefore find no harm to the settings of Oak Ryse or Park Cottage and as such no conflict with Policy E7 of the LP insofar as it refers to the protection of historic assets and their settings. Although not specifically referred to by the Council I have also considered the effect of the development on the setting of Acrise Park and its associated buildings and for the same reasons as those previously stated I find no harm.

Planning balance

21. The appellant suggests that in the absence of a specific policy in the development plan on self-build para 11d) of the Framework applies. However, there are relevant development plan policies in this case, as set out above, which relate to the re-use of rural buildings and conversions of buildings. For completeness, I have also found that these policies are consistent with the Framework and are not out-of-date for the purposes of para 11d). For these reasons, paragraph 11d), the so called 'tilted balance', is not engaged.
22. I have been referred to an appeal decision² which deals with self-build homes and the tilted balance. Whilst I do not have full details of that appeal before me it pre-dates the current Framework. Furthermore, I am clear that my interpretation of paragraph 11 is correct in this case. It does not, therefore, alter my position.
23. It is therefore incumbent on me to apply a straightforward balance as per s38(6) of the 2004 Act which is to determine the appeal in accordance with the development plan unless material considerations indicate otherwise.
24. The appellant wishes to build their own home and there is support for this in the Framework. I also note there is a current shortage of self-build plots in the area and the response to meeting this need is unclear on the evidence before me. Having regard to this, I give it moderate weight in favour of the development.
25. The development may bring about some minor short-term employment opportunities through the construction of the development, although I am conscious it is a self-build, and other limited and indirect spending in the area. It would also release Oak Ryse back into the housing market. These are modest benefits and must be balanced against the potential loss of business re-use as advocated by Policy E7 of the LP which has not been explored. Environmental benefits in terms of energy efficient construction and

² APP/J2210/W/18/3204617

biodiversity improvements are matters to which I also afford modest weight given the small scale of development.

26. The appellant cites an improvement in the appearance of the barn and a reassertion of the boundary to Oak Ryse. However, it will be seen above that I have found the existing building not to be harmful. There is also no formal confirmation before me that the curtilage of Oak Rise has lawfully changed. I have also found the impact of the development on the surrounding landscape and historic environment to not result in harm, i.e. that it would have a neutral impact.
27. I have found harm insofar as the appeal building is not suitable for conversion as it would conflict with Policies SS1, SS3 and CSD3 of the CS and E7 of the LP which, broadly speaking, seek to protect the open countryside whilst also supporting the rural economy or tourist industry. The Framework is clear that the planning system should be genuinely plan-led and as such I afford this conflict with the development plan substantial weight. I have had regard to all material considerations advanced in this case, none of which outweigh this harm.
28. The appeal is dismissed.

Hayley Butcher

INSPECTOR