
Appeal Decision

Site Visit made on 26 October 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2021

Appeal Ref: APP/X1545/W/21/3270860

Creeksea Place Barns, Ferry Road, Burnham-on-Crouch, CM0 8PJ

- 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. Harry Wilsdon against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/01308, dated 16 December 2020, was refused by notice dated 17 February 2021.
 - The development proposed is change of use of existing commercial barn into an event space for weddings and general events.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing commercial barn into an event space for weddings and general events. at Creeksea Place Barns, Ferry Road, Burnham-on-Crouch, CM0 8PJ in accordance with the terms of the application, Ref FUL/MAL/20/01308, dated 16 December 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 0840 30A Proposed Block/Location & Roof Plan; 0840 31B Plans and Elevations.
 - 2) The hereby approved premises shall only be open for customers/visitors/guests between the following hours: 0800 - Midnight Mondays – Sundays. Any staff in connection with the use of the approved premises shall not be on the site before the hours of 0730 and after 0100 on events days.
 - 3) Amplified or other music may only be played in the premises in accordance with the calculated maximum noise level limits set out within the PaceConsult noise assessment PC-20-0270-LT1 between the following hours: 0900 - 2359 Mondays – Sundays
 - 4) Before any amplified music is used within the hereby approved premises a sound limiter shall be installed, in order to maintain compliance with the calculated maximum noise level as set out in the submitted PaceConsult noise assessment PC-20-0270-LT1, in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The sound limiter shall be implemented as approved and retained thereafter.

Preliminary Matters

2. The description of the development provided on the planning application form has been replaced by a shorter version on the appeal form. I consider that subsequent description to be usefully more concise and I have therefore used it within this decision.

Main Issue

3. The main issue is whether the site represents an appropriate location for the proposed use, having regard to the existing use of the site as a leisure and tourist facility.

Reasons

4. The appeal site comprises an existing weatherboarded barn which is located within a small complex of buildings which have been previously converted to holiday let accommodation, a small gym and spa and café. The appeal barn has openings which face towards a shared courtyard which provides access between the other uses within the site and overlooks the holiday let accommodation. Together with the other buildings the appeal site forms part of a cohesive group.
5. Policy S8 of the Maldon District Approved Local Development Plan (LDP) reinforces the Council's development strategy. Although it does not expressly restrict developments outside settlement boundaries, it only permits them if they would not result in harm to the intrinsic character and beauty of the countryside and provided that they meet any one of a number of additional exceptions. One such exception is the re-use of redundant or disused buildings that would lead to an enhancement of its immediate setting or rural diversification, recreation and tourism.
6. The supporting text associated with Policy S8 states that the Council also recognises the need to maintain a sustainable rural economy, and the need to allow some flexibility for appropriate developments to be considered in the countryside in certain circumstances. It is stated that because some land uses or activities may be more suitable in the countryside rather than within the defined settlement boundaries.
7. The use of the existing building for events and weddings would enable further rural diversification of the site and also compliment the existing uses, which the Council describe as a leisure and tourist facility. It would also enable the building to be used in connection with the existing uses on the site and this would result in an enhancement of its immediate setting. Therefore, the proposal would comply with policy S8 of the LDP.
8. Policy E4 of the LDP deals with agricultural and rural diversification and sets out two criteria. Firstly, that the Council will support the development of new activities associated with other land-based rural business, subject to a number of criteria and secondly that the Council will support the change of use of existing rural buildings to other employment generating uses if it can be demonstrated that there is a justifiable and functional need for the proposal.

9. It has been put to me that insufficient evidence has been provided to justify the need for a wedding venue in this location. However, the evidence before me indicates that the appeal barn has been used over the years for a range of events which have taken part on the site in conjunction with the occupation of the holiday lets or for separate community events. This also includes approximately 18 weddings between 2010 and 2020. Therefore, the appellant has demonstrated that there is a demand for the use of the barn for a wide range of activities, and noting the impact that Covid-19 would have had on their ability to host events during 2020 and 2021, that there is demand for both weddings and events to be held at the site.
10. Policy E4 predates the National Planning Policy Framework (the Framework), which states at paragraph 84 that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, including through the conversion of existing buildings. The use of the existing building for events and weddings, having regard to its location, in close proximity to the existing leisure activities on the site, would enable the sustainable growth of the existing business and provide for greater opportunity for expansion.
11. The Council note that the use of the barn for events, as outlined within the supporting evidence, whilst not lawful, appears to be ancillary to the existing use. The concern that a separate wedding venue could be established which would not be linked to the existing activities on the site is noted. However, having regard to the proximity of the appeal site to the existing buildings and the overall size and scale of the site it would be difficult to envisage how in practice the barn could operate as a wedding venue, in isolation from the other uses taking place on the site. Therefore, I am satisfied that the function of the proposed building, which would not be solely limited to weddings, would be ancillary to the existing leisure and tourism use of the site.
12. In conclusion, the site represents an appropriate location for the proposed use, having regard to the existing use of the site as a leisure and tourist facility, in accordance with policies S8 and E4 of the LDP for the reasons set out above. It would not conflict with policies S1 and S2 of the LDP which seek to ensure that the rural character of the district is maintained and sets out the Council's vision for strategic growth.

Other Matters

13. The Council's reason for refusal includes reference to Policy H4, which deals with the effective use of land and does not appear directly relevant to the application before me. However, I note that within the Council's officer report Policy H4 is referenced in terms of design and impact on the character of the area and the report concludes that the existing barn appears to be sympathetic to the wider rural area in terms of design and appearance. In addition, no objections were raised to the design of the development or the impact on the character of the area and I have no reason to disagree with this assessment.

Setting of Listed Buildings

14. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.

Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.

15. I have considered the effect on the Grade II* Listed Creeksea Place Manor House, which is set back from the road and contained within its own landscaping. As such, even developed, the site would not have a significant impact on how the listed building would be appreciated or the elements that form its setting. I conclude that the development would not result in harm to the setting of the listed building.

Conditions

16. The Council has suggested 5 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. For the avoidance of doubt a condition is necessary to define the plans with which the scheme should accord.
17. I have also found it necessary to impose conditions limiting both the hours of use and when music can be played, in order to protect the amenity of the area and neighbouring sites. I have also imposed a condition requiring the installation of a noise limiter which is linked to the evidence submitted within the noise assessment.
18. The Council has suggested a condition requiring a biodiversity enhancement layout, however I have not been provided with sufficient justification for the need for this condition. The Council's Strategic Development Officer also recommended a condition requiring the public right of way to be maintained and unobstructed. I do not consider it necessary for either of these conditions to be imposed, having regard to the nature of the development proposed, which is for a change of use with no alterations to the existing building.

Conclusion

19. For the reasons given I conclude that the appeal should succeed.

G Pannell

INSPECTOR