



Appeal Decision

Site visit made on 12 January 2022

by G Ellis, MSc, BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2022

Appeal Ref: APP/U1430/W/21/3278278

Copshall Farm, Winchelsea Road, Guestling Green, East Sussex TN35 4LT

- 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 Colin Pennington against Rother District Council.
 - The application, Ref RR/2021/53/P, is dated 12 January 2021.
 - The development proposed is external alterations to barn to facilitate conversion of barn to hotel and landscaping.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Application for costs

2. An application for costs was made by Mr Colin Pennington against Rother District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The barn, the subject of this appeal, is referred to by the appellant and in various documents as "barn 2". Barn 1 is a smaller barn located to the side of barn 2 but outside the application site. For consistency and ease of reference I have used these annotations for the barns as appropriate.
4. The site address is taken from the application and appeal forms; however, the site is accessed from Butchers Lane not Winchelsea Road.

Main Issues

5. The main issues are the extent of the application site, and the impact of the development on the character and appearance of the area.

Reasons

Background

6. The barn ("barn 2") benefits from permitted development rights under Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the change of use of a building and any land within its curtilage from agriculture to a flexible commercial use (including a hotel - Class C1). The Council's decision issued 10th February 2021 confirmed that prior approval was not required subject to conditions (Council reference RR/2020/2521/PN3).

7. After the submission of this appeal, full planning permission was granted 6 December 2021 for the conversion of the barn to a hotel with associated vehicular access, parking provision and landscaping (Council reference RR/2021/1724/P).
8. Planning permission has also been granted (July 2019) for the conversion of barn 1 to B1 light industrial use with associated access and parking arrangements (Council reference: RR/2018/1462/P). Work has commenced on the creation of the access from Butchers Lane.

Site Area

9. Permitted development under the GPDO Class R is subject to a number of conditions and limitations but only permits the change of use. Any associated operational development requires its own planning approval. The proposal, the subject to this appeal, is for external alterations to the barn, provision of car parking and landscaping to facilitate the change of use to a hotel.
10. The Council argue, with reference to the GPDO Class R sub-paragraph (4), that the proposed development goes beyond "associated operational development" because the application site (identified by the red line on the location plan – reference P2007-SP01-C) is larger than that which accompanied the Class R prior approval application.
11. Sub-paragraph (4) states: - *"For the purposes of sub-paragraph (3), "associated operational development" means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R."* Sub-paragraph (3), relates to the timescales for the implementation of development (the change of use) under Class R.
12. There is no requirement under Class R to submit details of the associated operational development, nor a specific two-stage process directly linked to the prior approval application.
13. As operational development is subject to a separate full planning application the extent of development is not defined and I agree with the appellant's position that there is no requirement for the site areas to match. I also concur that development required to support the operation of a hotel use may need to be located beyond the curtilage for functional and physical reasons, for example the access drive or landscaping.
14. In coming to my view, I have had regard to the other cases referred to by the appellant, in particular Dutch Barn, Welsh Way¹, although I note that the main issues in that case were different and related to whether the building was suitable for conversion and its location.
15. In this case, changes to the external appearance, parking and landscaping would be required to use the barn as a hotel. The proposed development does cover a larger area of land but nevertheless relates to the same building. Whether the extent of the development is reasonably necessary is a separate matter and not an issue the Council has raised in their appeal statement, other than in relation to the extent of the site area. Furthermore, within the context of an appeal under section 78 of the Act it is not within my remit to formally

¹ Appeal Ref: APP/F1610/W/17/3188502

determine whether the proposed development accords with the conditions of the permitted development rights, however, I have considered the evidence so far as it is material to this appeal.

16. Based on my conclusions on this matter, I shall therefore assess the proposed development, as applied for, on its own merits, albeit the change of use of the barn and related matters of transport and highways, noise, contamination and flood risk (as defined by condition R.3 (1) (b) under the GPDO Class R), have already been assessed as part of the prior approval process and therefore are material considerations. Although the change of use only relates to the curtilage, which as defined by paragraph X of Part 3 of the GPDO is restricted to an area of land immediately beside or around the agricultural building, and in this case is identified on the block plan which accompanied the prior approval application².
17. Notwithstanding the issues relating to the site area, the Council indicate that had they been able to do so it is likely the recommendation would have been to grant planning permission. However, there is no assessment of the proposal in relation to the development plan and interested parties have raised various concerns.

Character and appearance

18. The large barn (barn 2) is a typical agricultural barn comprising a steel framed structure with corrugated sheet walls and pitched roof. Immediately to the east is a second barn (barn 1) which is of a similar form. Both barns are in a dilapidated state and the surrounding field is somewhat overgrown. The land is elevated from Butchers Lane, which is rural in character, bound by open fields which are interspaced with vegetation and sporadic farmsteads.
19. The barn is orientated end on to the road and, apart from the access point which is under construction, trees and vegetation along the side of the road screen immediate views. It does, however, have a notable presence in the wider landscape due to the topography. The barn forms part of a small group of buildings at the end of Butchers Lane at the junction with Winchelsea Road. This includes Copshall Farmhouse and Copshall Barn, which are both in residential use and Grade II listed buildings and to the northwest is an Oast house which has an outbuilding located on the north-western boundary of the field.
20. To facilitate the hotel use, the barn would be reduced in size through the removal of the existing lower section, but the open framework retained, and a new western elevation created. All elevations and the roof of the barn would be reconstructed to the existing frame and clad in metal together with large timber glazed units and roof lights. In addition, a row of parking spaces would run parallel to the barn, aligning approximately with the access, and the whole of the application site would be covered by a landscaping scheme.
21. The works to the building are substantial, nonetheless, permitted development rights under Class R establish the use of agricultural buildings as a hotel and significant work would be necessary to enable this. However, in my opinion, and notwithstanding my conclusion on the first matter, this does not infer any extent of operational development is reasonable or appropriate.

² Drawing P2008-SP02 C – Council’s Appendix A

22. I accept that the proposed cladding materials and the general appearance of the building has been designed to maintain the utilitarian style of the existing barn, and that the works would improve the existing poor condition of the building. But the profile of the building is to be changed and whilst it is to be reduced in size, in my view, the proposed western elevation would be visually more prominent. Its impact would also be exacerbated by an increase in light pollution from the large amount of glazing which includes 8 door height windows both to the east and west elevations. In addition, the decked areas for each room, communal gardens, parking and landscaping extend development some distance to the south which would change the appearance of the site, having an urbanising impact.
23. Notwithstanding this, the external design of the building under the extant consent³ is akin to this proposal and I have no reason to doubt that this extant scheme would be implemented, bearing in mind that the appellant has sought to pursue a hotel use for the building through various applications, and thereby represents a fallback.
24. All of the other proposals (including the fallback, consent for barn 1 and the prior approval scheme) would have parking along the edge of the site adjacent to Butchers Lane. In contrast, this proposal includes a large length of parking in front of the barn. Together these areas would result in an extensive area of parking, and, in my view, would have a harmful impact on the rural character of the site. The west of the site is visible in the wider landscape with views across the open fields from Butchers Lane (to the southwest) and Fourteen Acre Lane. The location and extent of the parking, extending across the width of the site, would be intrusive and harmful to the open countryside setting. While hedge planting is proposed to provide screening, this would in my view have a formal appearance and further sub-divide the site.
25. The appeal site is located within the High Weald Area of Outstanding Natural Beauty (the AONB). Paragraph 174 of the National Planning Policy Framework (the Framework) indicates that planning decisions should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Paragraph 176 explains that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection.
26. I acknowledge that a change to the character of the site would occur in any event through the permitted change of use, although that relates to a smaller site area, and thus less harmful. The scale and form of the proposed external works are extensive and would adversely impact on the character of the area including its landscape setting and would be significantly more harmful than the fallback.
27. I therefore conclude that the proposed development would be out of keeping with the character of the area and cause harm to the landscape and scenic beauty of the AONB. Thus, the proposal would conflict with Policies OSS4, EN1 and EN3 of the Core Strategy, Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan 2018 and the Framework (paragraphs 174 and 176) which collectively seek high quality design which positively contributes to the character of the site and surroundings and conserve and enhance the landscape qualities of the AONB.

³ RR/2021/1724/P

Other Matters

28. The appellant has referred to other appeal decisions, nevertheless each case is to be considered on its own merits. While the external works to the actual building in the Dutch Barn case⁴ appears to be similar that Inspector indicated that the parking and turning area were modest which is different to this case.
29. Matters of location, demand for tourist accommodation, carbon consumption of foreign holidays and impacts on the local economy primarily relate to the hotel use which is outside the scope of this proposal. There is no evidence before me to suggest that there are economic or other advantages related to the appeal scheme over and above the development already permitted.
30. I accept as suggested by the appellant ecological impacts could have potentially been addressed through a condition, however this would not overcome the harm I have found to the character and appearance of the area.

Conclusion

31. Whilst finding that the extent of application site area is not limited to the GDPO Class R proposal, I find that the extent of works would be harmful to the character and appearance of the area.
32. For these reasons and having regard to all other matters raised I conclude that the appeal should be dismissed, and planning permission refused.

Gill Ellis

Inspector

⁴ APP/D0840/W/20/325457 – Appellant Final comments Appendix 3