



Appeal Decision

Site visit made on 7 February 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/C1435/W/21/3275727

Bolton Buildings, Five Chimneys Lane, Hadlow Down TN22 4DX

- 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 Chris Benford of CMR Electrical against the decision of Wealden District Council.
 - The application Ref WD/2020/2550/F, dated 7 December 2020, was refused by notice dated 11 May 2021.
 - The development proposed is extension to commercial building.
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Decision

1. The appeal is allowed and planning permission is granted for extension to commercial building at Bolton Buildings, Five Chimneys Lane, Hadlow Down TN22 4DX in accordance with the terms of the application, Ref WD/2020/2550/F, dated 7 December 2020, and subject to the conditions in the attached schedule.

Preliminary Matter

2. Since submission of the appeal, the National Planning Policy Framework (the 'Framework') has been updated. I have had regard to the updated version of the Framework in reaching my decision.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for the development, having regard to accessibility;
 - the effect on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty; and
 - the effect on ancient woodland.

Reasons

Location and accessibility

4. Saved Policy BS9 of the Wealden Local Plan 1998 permits expansion, redevelopment or intensification within existing business sites outside development boundaries where there would be no adverse effect on the landscape, and it would not detract from rural environmental qualities by virtue of the use of the site or traffic generation. Although now dated, Policy BS9 is consistent with paragraphs 84 and 85 of the Framework, which enable the

sustainable growth and expansion of all types of business in rural areas and recognise 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.

5. While the site lies some distance from the nearest settlements at Hadlow Down and Buxted, it is occupied by an existing building in light industrial use. The appellant has explained that the extension is needed to enable the expansion of the existing business, primarily for workshop space with a smaller area of ancillary office accommodation. The Council suggests that there is a reasonable likelihood that the extension would be marketed for separate use, but I have been provided with no evidence that would be the case.
6. The site is not well served by public transport, being accessed via a narrow country lane without lighting or footways, and therefore any additional traffic generated by the proposed development is likely to be by motor car. However, given the size of the extension and nature of the proposed use, this additional traffic generation is likely to be modest.
7. Having regard to the support given to the expansion of existing businesses in rural areas by Policy BS9 and the Framework, I conclude that the limitation on accessibility is not so disadvantageous as to outweigh the benefit of enabling the expansion of the existing business, so long as the other criteria of the policy are met. Subject to this proviso, the development would therefore not conflict with Policies GD2 and EN1 of the Wealden Local Plan 1998 and Policies SPO7, WCS6 and WSC14 of the Wealden District Core Strategy Local Plan 2013, which seek to direct development to the most appropriate locations.

High Weald Area of Outstanding Natural Beauty

8. The site lies in open countryside, characteristic of the High Weald with small pasture fields and patches of woodland, enclosed by trees and hedgerows, in an undulating landscape of valleys and ghylls.
9. The site is laid mainly to grass, with boundaries defined by hedges and trees. The existing building is partly screened from the lane by an overgrown tree and hedge belt along the verge although oblique views of it can be gained from more open sections of the lane to the north and south of the site, and a nearby footpath. The visual impact of the building is further reduced by it being set back and down from the level of the road. It is of utilitarian design with brick, first floor timber cladding and a shallow pitched, box profile sheet roof, not unlike some modern farm buildings.
10. The proposed extension would be of similar design and clad in the same external materials maintaining its utilitarian appearance. It would elongate the building which would increase its visual prominence in the landscape to a degree. However, that prominence would be limited by it being set behind the existing building further back from the lane and being viewed as a continuation of the existing building rather than a new standalone structure. The parking area would be extended but this would be at the lower level minimising the impact of parked vehicles in views from outside the site. The large majority of the site would remain laid to grass and all boundary trees and hedging would be retained. Additional landscaping could be secured by condition and would help further soften views of the existing building as well as the proposed extension.

11. The Council has drawn attention to a previous appeal decision on the site¹, which was dismissed because of the impact on the Area of Outstanding Natural Beauty. However, that was for an office scheme in a new building of a different design with considerably more associated parking and traffic generation. I consider these features distinguish it from the current appeal proposal such that it carries little weight in this case.
12. Because of its siting, appearance and relation with the existing building, I conclude that the additional visual impact of the proposed extension would be limited to the extent that the landscape quality of the area would not be harmed, and as a result the scenic beauty and character of the High Weald Area of Outstanding Natural Beauty would be conserved. The proposed development would not therefore conflict with Policies EN6 and EN27 of the Wealden Local Plan 1998 or Policies SPO1 and SPO13 of the Wealden District Core Strategy Local Plan 2013, which seek to conserve or enhance the natural beauty and character of the landscape and achieve good design.

Ancient woodland

13. The Council has submitted a map extract² that indicates a belt of ancient and semi-natural woodland along the northern and part eastern boundaries of the site.
14. However, evidence submitted by the appellant³ and from what I saw on my own site inspection shows that not to be the case. The site is mainly laid to grass, as are the fields to the southwest and northeast. There are trees along some of the boundaries, but these form part of the hedgerows rather than woodland or wooded shaws. The position of the extension is in any case outside the belt of ancient woodland indicated on the map extract along the northern boundary of the site.
15. The Council has submitted a historical map and photographs that suggest parts of the site and adjoining land were previously wooded. When the change from a more wooded state took place is not clear, but it would appear from the assessment and survey carried out on behalf of the appellant and from what can be seen on site that the current situation of mainly grass with boundary trees, and with pasture fields to either side, has been established for many years. The Council has criticised the assessment and survey work carried out on behalf of the appellant, but as these are both based on detailed site inspections, I give them weight.
16. Furthermore, the position of the proposed extension is currently occupied partly by a concrete hardstanding and partly by raised ground. Even if this area of the site had historically been occupied by woodland, it would no longer benefit from ground flora of any ecological value. The area of the site beyond the proposed extension is also partly made up with rubble and other building waste, which is likely to have resulted from the clearance of previous buildings on the site. Arguments for a buffer zone are therefore otiose, as there is no adjacent woodland to protect.

¹ APP/C1435/A/02/1094396

² magic.defra.gov.uk

³ Broad Oak Tree Consultants Limited, arboricultural implications assessment, February 2021 and Wildlife Matters Consultancy Unit, Phase 1 Habitats Survey, February 2021.

17. Having regard to the above, there is no evidence that the proposed extension would cause harm to ancient or semi-natural woodland, as there is no such woodland on or adjoining the site. If parts of the site had historically been wooded, this change must have happened many years ago, and any residual ecological value accruing to the land would have been lost as the result of the ground being made up. Consequently, I conclude that the proposed extension would not give rise to the loss of irreplaceable habitat and would not therefore conflict with Policy ENV13 of the Wealden Local Plan 1998, which seeks to retain and enhance the contribution of trees and woodland to the landscape.

Other Matters

18. An adjoining neighbour has raised concerns with regard to surface water drainage and the possibility of ground contamination from building rubble. These are matters that could be made subject of conditional controls.
19. The Parish Council is in support of the proposal, subject to controls on the matters raised by the adjoining neighbour and that the extension is not sublet. So far as the latter issue is concerned, it is the use of the extension rather than the user that is the subject of planning control.

Conditions

20. I have considered the conditions suggested by the Council in the light of the tests set out in paragraph 56 of the Framework. I have imposed those which I consider meet the tests, subject to rewording in the interests of clarity and precision. Some conditions have been combined for simplicity.
21. In addition to the standard time limit condition, a condition listing the approved plans is necessary in the interests of certainty.
22. A condition requiring approval of surface water drainage is necessary to minimise the risk of flooding offsite. This condition needs to be implemented prior to commencement. The appellant has agreed to such a pre-commencement condition in the statement of case.
23. A condition requiring investigation, assessment and remediation of any contamination is necessary given the building rubble that is evident on site and the possibility that some of it may be asbestos.
24. Conditions requiring matching materials, hard and soft landscaping, protection of existing vegetation and provision of biodiversity measures are necessary in the interests of the character and appearance of the area and its ecological value.
25. A condition requiring water and energy efficiency measures is necessary to make the development sustainable and to meet policy requirements of the development plan.
26. Conditions requiring the provision of parking and turning space, and cycle parking, are necessary to ensure adequate space on site for parking and to encourage alternative modes of transport.
27. A condition restricting external lighting is necessary in the interests of the rural character of the area. The appellant has confirmed that there is no intention to have external lighting.

28. The Council has suggested a condition requiring precautionary and mitigative measures to be carried out during construction, but having regard to my reasoning above I see no justification for such measures. The use sought is light industrial, which by definition is of a type which does not cause undue disturbance, so conditions restricting power machinery, extraction systems or hours of use are unnecessary. Paragraph 54 of the Framework says that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I see no justification to restrict such permitted development rights in the way suggested by the Council.

Conclusion

29. Although the site lies outside any development boundary, the expansion of existing rural business sites is supported by Policy BS9 of the Wealden Local Plan 1998, notwithstanding its remote location and subject to other objectives of the Plan being met. I have concluded that the extensions would not harm the landscape or scenic beauty of the High Weald Area of Outstanding Natural Beauty nor harm ancient woodland. I consider that the development would therefore comply with the development plan when taken as a whole.

30. I conclude that the appeal should be allowed.

Guy Davies

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 approved plans: 2020/091/PL1 Rev A; 2020/091/PL2 Rev B.
- 3) Prior to the commencement of development, details of the proposed means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved surface water drainage details shall be installed prior to completion of the development hereby permitted, and thereafter retained in working order.
- 4) Prior to works below ground level other than for formation of the parking area, a ground contamination investigation and risk assessment to include a survey of any ground contamination on the site, an assessment of potential risks to health and ecology and a scheme for remediation shall be submitted to and approved in writing by the Local Planning Authority. The approved remediation scheme shall be carried out prior to any works below ground level other than for the formation of the parking area. Within 2 weeks of the completion of the remediation scheme a verification report confirming completion of the remediation scheme shall be submitted to the Local Planning Authority.

- 5) Prior to any works above ground level, a landscaping scheme to include all hard and soft landscaping on the site and measures for protection of existing vegetation during construction shall be submitted to and approved in writing by the Local Planning Authority. All planting comprised in the approved scheme shall be carried out in the first planting season following occupation of the building. Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping comprised in the approved scheme shall be carried out prior to occupation of the development. All measures for protection of existing vegetation shall be installed prior to any works above ground level and retained for the duration of construction works.
- 6) Prior to occupation of the development, details of biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The details shall be installed prior to occupation of the development and thereafter retained.
- 7) Prior to any works above ground level, details for the incorporation of water and energy efficiency measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved measures, which shall thereafter be retained.
- 8) Prior to occupation of the development, the parking and turning areas shown on the approved plans shall be provided and thereafter retained for such use.
- 9) Prior to occupation of the development, details for 4 sheltered and secure cycle parking spaces shall be submitted to and approved by the Local Planning Authority. The approved cycle spaces shall be installed prior to occupation of the development and thereafter retained.
- 10) No lighting or other means of external illumination shall be installed or operated on the site.
- 11) The materials used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

***** End of conditions*****