



Appeal Decision

Site visit made on 1 November 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/M1710/W/21/3288285

Old Thorns Farm Cottage, Weavers Down, Liphook GU30 7PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Atkinson against the decision of East Hampshire District Council.
 - The application Ref 50951/010, dated 11 August 2021, was refused by notice dated 18 October 2021.
 - The application sought planning permission for demolition of existing dwelling, erection of new dwelling and double garage, without complying with conditions attached to planning permission Ref 50951/003, dated 17 July 2014.
 - The conditions in dispute are No's 2 and 3 which state that: *[2] Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order) no development falling within Classes A, B, C, & E of Part 1 of Schedule 2 shall be carried out without the prior consent of the Planning Authority, through submission of a formal planning application; and [3]: Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990, or any subsequent re-enacting Acts, no habitable floor space shall be formed within the roof space of the dwelling hereby permitted. The use of the aforementioned roof area shall be confined to incidental domestic storage purposes only.*
 - The reason given for the conditions are: *[2] The site lies in a rural area where it is considered that further development may be detrimental to the character of the area and as such be contrary to the adopted policies of the Planning Authority which aim to retain a range of dwelling sizes in the countryside; and [3] The site lies in a rural area where it is considered that the use of the roof space for habitable purposes would result in a larger dwelling than originally permitted, resulting in a loss of the range of dwellings in the countryside and as such, be contrary to the adopted policies of the Planning Authority.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At question 5 of the application form the appellant provided details of their proposal for the variation of condition 2 to allow for permitted development right for Classes, A, B, C, and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO). In their determination of the application, and with regard to condition 2, the Council have considered the proposal as it was indicated at question 5 of the application form. Within the supporting statement which accompanied the application, it was indicated that the proposal was for condition 2 to be varied

only so far as to remove the reference to Class C so as 'to allow for the conversion of the attic into habitable space'. For clarity, this appeal has been considered having regard to the description proposed on the application form.

Main issue

3. The appellant seeks the variation of condition 2 and the removal of condition 3, to enable the attic space within the dwelling to be converted to form additional living accommodation.
4. The effect of Condition 2 is to remove the permitted development rights specified within classes; A (the enlargement, improvement or other alteration of a dwelling); B (additions to its roof); C (other alterations to its roof); and E (buildings incidental to the enjoyment of the dwelling) of Part 1 of Schedule 2 of the GPDO.
5. The effect of condition 3 is to prevent the attic space being used to form additional living accommodation. The removal of this condition would mean that the use of the attic space would no longer be restricted to incidental domestic storage purposes only.
6. The main issue is whether the conditions are necessary having regard to their effect on the supply of a range of dwelling sizes in countryside locations within the District.

Reasons

7. The appeal site is located in a countryside location. It accommodates a detached dwellinghouse and its associated garden.
8. Policy H16 of the East Hampshire District Local Plan Second Review 2006 (the Local Plan) details the parameters for which proposals for replacement dwellings outside of settlement boundaries should be considered. The policy seeks to restrict subsequent extensions which would result in an increase in floorspace beyond the parameters identified. The policy's supporting text indicates that the District-wide housing needs surveys identify a continuing need for smaller less expensive accommodation, yet there has been a trend towards larger properties in the countryside, many of which were created by the expansion of smaller properties.
9. Policy H16 of the Local Plan was in force at the time that planning permission reference 50951/010 was determined and remains part of the Development Plan. The Council have indicated that the size of the replacement dwelling subject of that permission was in excess of the parameters set within Local Plan Policy H16. Conditions 2 and 3 were imposed to prevent further increases which would be contrary to Council's objective to retain a range of dwelling sizes in the countryside.
10. The appellant indicates that if condition 2 were to be varied to remove reference to Class C then it would enable the provision of living accommodation within the roof. This is because the removal of Class C would allow certain alterations to be made to the roof, which could include the insertion of rooflights.
11. The floorspace within the attic already exists. As such, the proposal to remove condition 3 would not facilitate an increase in residential floorspace within the

dwelling. Nor would the use of the attic as living accommodation constitute development. However, the removal of condition 3 would facilitate a substantial increase in the amount of floor space which could be used to provide living accommodation within the dwelling.

12. If allowed, and in line with restrictions contained within the GPDO, the proposals would therefore enable certain increases to be made to the size of the dwelling; buildings etc incidental to the enjoyment of the dwelling; and alterations to the roof. They would also allow for the use of the attic space as living accommodation. Individually and cumulatively, these uses and operations could lead to an increase in the amount of living space within the dwelling.
13. Such increases would have a harmful effect on the supply of a range of house sizes within countryside locations within the District. The enlargement of even one such dwelling above the parameters set out in Policy H16 of the Local Plan would undermine the Council's objective in this regard. The proposals would therefore conflict with Policy H16 of the Local Plan.
14. Although Policy DM10 of the Regulation 18 consultation Draft Local Plan 2017-2036 provides circumstances where extensions may be granted to existing dwellings, even if I were to find that the development proposal would comply with this policy, then the weight that could be afforded to this consideration would be very limited due to the early stage of the plan and the high degree of uncertainty that the policy will remain in the same form.
15. No compelling evidence has been supplied demonstrating that the building is under-utilised, or that its use to provide additional living accommodation would help to meet an identified need for housing.
16. Although some support has been expressed by interested parties and Bramshott and Liphook Parish Council, this does not lead me to a different conclusion regarding the harms which could result from the removal or variation of conditions 2 and 3.
17. Whilst I have not been provided with full details of the development subject of appeal reference APP/R3650/W/20/3256687, that appeal related to property within a different Local Planning Authority area with a different planning policy context. Nor in reaching their decision did the Inspector refer to the effect of the development on the supply of houses of a range of sizes. As such the cases are not sufficiently comparable to draw any conclusion in favour of the proposal.
18. Paragraph 62 of the National Planning Policy framework (the Framework) indicates that the size of housing is one of the considerations that should be taken into account when considering the housing need for different groups in the community. In respect of this appeal, Policy H16 of the Local Plan is in general conformity with paragraph 62 of the Framework. As such full weight can be afforded to this policy.
19. Paragraph 53 of the Framework relates to the use of Article 4 directions to remove permitted development rights. In this case I have found a clear justification for the use of conditions 2 and 3 to restrict permitted development rights at the property and to prevent the use of the attic space as living accommodation. As such there is a clear justification for their retention, in accordance with the objectives of paragraph 54 of the Framework.

Furthermore, I find that conditions 2 and 3 accord with the six tests set out within paragraph 56 of the Framework, in that they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.

20. For the reasons provided above, conditions 2 and 3 are both necessary. Their removal would facilitate harm to the supply of a range of dwelling sizes in countryside locations within the District. Consequently, and in this respect, the proposal would conflict with the aims of Policy H16 of the Local Plan and CP1 of the of the East Hampshire District Local Plan: Joint Core Strategy – 2014, which seeks to ensure sustainable development.

Other Matters

21. The Council have indicated that a small part of the eastern part of the property lies within the Wealden Heaths Special Protection Area. However, given that this appeal is being dismissed on unrelated grounds, consideration of whether an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required.
22. That the potential insertion of rooflights and use of the attic as living accommodation would not have an adverse effect on the character and appearance of the area, or upon the living conditions of occupiers of neighbouring properties are neutral factors.

Conclusion

23. The proposals conflict with the development plan when considered as a whole and there are no material considerations, either individually or in combination that outweigh the identified harm and associated development plan conflict.
24. For the reasons given above this appeal is dismissed.

V Simpson

INSPECTOR