



Appeal Decisions

Site visit made on 22 March 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal A Ref: APP/U1430/W/22/3298969

**The Old Chicken Barn, Hoads Farm, Moat Lane, Sedlescombe, Battle
TN33 0RY**

- 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 Warren Behling against the decision of Rother District Council.
 - The application Ref RR/2021/1473/P, dated 8 June 2021, was refused by notice dated 25 November 2021.
 - The development proposed is described in the application form as: To replace chicken barn with 1 detached house on same footprint and raising to accommodate a second floor, however lowering the pitch of the roof to keep the new height to a minimum. Please also see planning statement.
-

Appeal B Ref: APP/U1430/W/22/3300453

**The Old Chicken Barn, Hoads Farm, Moat Lane, Sedlescombe, Battle
TN33 0RY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class A or Class B, Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Warren Behling against the decision of Rother District Council.
 - The application Ref RR/2022/1013/FN, dated 20 April 2022, was refused by notice dated 13 May 2022.
 - The development proposed is described in the application form as an alteration to Barn.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Appeal A

Preliminary Matter

3. The Council's first reason for refusal refers to Policy EC3 of the Rother Local Plan Core Strategy (2014) (CS). This policy states that it will apply until the Development and Site Allocations Plan and/or Neighbourhood Plans are in place. The Council's Development and Site Allocations Local Plan (2019) (LP) is now in place and forms part of the development plan. I do not therefore assign any significant weight to Policy EC3 of the CS.

Main Issues

4. The main issues in Appeal A are:

- Whether the appeal site is an appropriate location for a dwelling, with particular regard to the use of the existing building and local and national policies; and
- The effect of the proposal on the character and appearance of the area, with particular regard to the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Location and Existing Building

5. The existing building is a large single storey building of typical agricultural design, with a side extension providing a partially open sided storage area. It is located in the corner of a field comprising approximately 5.5 acres in the open countryside. It is proposed to demolish the existing building and erect a 2 storey dwelling.
6. Policies RA2 and RA3 of the CS seek to strictly limit new development in the countryside to that which would support local agricultural, economic or tourism needs and that which would maintain or improve the rural character, amongst other things. Policy RA3 states that the creation of new dwellings in the countryside will be allowed in extremely limited circumstances. None of the 4 examples of such circumstances provided in Policy RA3 are applicable to the proposal.
7. Policies DEC3 and DCO1 of the LP seek to protect existing employment uses and require any proposals which involve a loss or diminution of sites of economic value to demonstrate that there is no reasonable prospect of their continued use, amongst other things.
8. The existing building was originally erected as an agricultural building, but it no longer forms part of a farm and has since been used for the storage and restoration of a private vehicle collection, with offices¹. At the time of my site visit the building did not appear to be in use for any clear purposes, although I note section 6 of the application form states that it was in use as a 'chicken barn with office and storage at the front' at the time the application was submitted. On the information presented, it appears that the building has provided employment opportunities previously, even if only at a low-level.
9. The appellant has explained that farmers would not be interested in purchasing or renting the site on account of its size and the condition of the existing building. This is claimed to be supported by no farmers purchasing the site prior to the previous owner², the site not selling at an auction in December 2019³, and then no farmers purchasing the site after 5 further months of marketing. Very limited details have been provided in these regards.

¹ As approved by planning permission, the Council's ref: RR/2018/3039/P

² Who did not appear to use it for agricultural purposes

³ Auction dated 12 December 2019, as set out in the appellant's appendix titled 'Strettons Auction Unsold'

10. The building appears to be in a poor state of repair, with missing sections of roof⁴. It would likely require significant investment before it could be used again for employment purposes, but there is little information before me to suggest this may not be viable. Indeed, any potential purchaser of the appeal site, including the appellant when they purchased it, would have been aware that the building required investment when the property was advertised for sale previously. Taking all matters raised into account, it has not been demonstrated that there would be no reasonable prospect of the appeal building offering support for employment in line with its lawful use.
11. As the appeal site is located in the countryside, the erection of a dwelling which would not support land-based industries or employment or tourism opportunities would conflict with Policies RA2 and RA3 of the CS, the requirements of which are set out above. In the absence of sufficient evidence to convince me otherwise, the proposal would also involve the loss of employment space, contrary to Policies DEC3 and DCO1 of the LP.
12. The Council's first reason for refusal also refers to Policies OSS3 and OSS4 of the CS. I do not consider these policies relevant to the first main issue in this appeal, and I have considered them in my reasoning relating to the second main issue.

Character and Appearance

13. The appeal site is located within the AONB, this part of which is characterised by rolling countryside with trees and hedgerows interspersed with rural buildings. There are intermittent views from the appeal site of scattered houses and low-scale agricultural/commercial buildings in the surrounding landscape. Despite there being views of other buildings of various sizes and designs locally, the character and appearance of this part of the AONB is distinctly rural.
14. In this context, the existing building is a typical feature of the local area on account of its agricultural appearance, near the end of a remote private lane. The existing building is large⁵, but its size is reflective of its original purpose as a chicken barn. The condition of the existing building does not cause any significant harm to the character and appearance of the area, where remote dilapidated agricultural buildings would not be unexpected features.
15. The proposed dwelling would be spread over a slightly smaller footprint than the existing building, but it would have a higher ridge height, with lower roof slopes. It would be set over ground and first floor levels and would include 5 bedrooms, an integral garage, cinema room, gym, study spaces, a kitchen/diner/lounge, and storage space. Its size⁶ would be seen as excessive for a new residential building in this sparsely developed rural location.
16. Although the form and finish of the proposed dwelling would take design cues from the existing agricultural building, it would be clearly seen as a substantial residential building in a wide range of views. This would be on account of its fenestration and the access and infrastructure which would inevitably be

⁴ My site visit was carried out during high winds, and I note this may have been a recent change to the state of the building

⁵ Approximately 17 metres x 37.12 metres footprint, approximately 5 metres ridge height

⁶ 14.89 metres x 37.12 metres footprint, 4.83 metres eaves height, 7.2 metres ridge height

associated with its use. Overall, it would not look like a barn, and it would not blend with its environment.

17. The proposal would be seen and experienced as an odd and uncharacteristic feature in the AONB. This would be unsympathetic to the landscape and scenic beauty of the AONB and would cause significant harm to the character and appearance of the area. This harm would be long-lasting and I am unconvinced that it could be mitigated through any planting scheme or future maintenance and/or management of surrounding land.
18. The proposal would therefore fail to accord with Policies OSS3, OSS4, RA2, RA3 and EN3 of the CS and Policies DEN1 and DEN2 of the LP. These require, amongst other things, development to have regard to the character and appearance of the surrounding area, which should be of an appropriate scale, reinforce landscape character, and conserve and seek to enhance the landscape and scenic beauty of the AONB.

Other Matters

19. The appellant has advised that the Council is unable to demonstrate a 5-year housing land supply. This has not been disputed by the Council. Where this is the case, paragraph 11(d)(i) of the National Planning Policy Framework (the Framework) advises that the policies which are most important for determining the application should be deemed out-of-date and planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, such as the AONB, provides a clear reason for refusing the development proposed.
20. Paragraph 176 of the Framework explains that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. It explains that the scale and extent of development in such places should be limited. As I have found the scale of the proposal would be unacceptable for its location, where it would be unsympathetic to the landscape and scenic beauty of the AONB, the Framework provides a clear reason for refusing planning permission in this case. The proposal would not therefore be supported by the presumption in favour of sustainable development set out in the Framework.
21. The proposal has been designed so that it could accommodate the appellant's parents in the future, when it is anticipated that they will need to have a live-in carer some of the time. There is limited information in this regard and the appellant's submissions suggest the proposal could only be used to accommodate their parents 'if required'. There is a lack of evidence to suggest the proposal would be essential or helpful to meet the current needs of the appellant's parents, rather than their possible needs at an unknown point in the future.
22. I note that the proposed dwelling would be accessible to people with mobility issues, with ramped access, bedrooms on the ground floor, an internal lift and 2 staircases. The proposal would therefore provide accessible large family accommodation, and it would allow the appellant to move out of a flat and into improved living accommodation with outside and work from home space. This would free-up the appellant's flat for people looking to get onto the housing ladder or to downsize, which may in turn vacate larger properties.

23. The appellant has referred to the district as having a high percentage of people aged over 45 years requiring a wide variety of properties. I do not doubt that there are many people over that age within the district, but the proposal would make only a very modest contribution towards the stock of accessible houses with 4 or more bedrooms. I therefore assign modest weight to the benefits of the proposal amounting from the provision of a single unit of large and accessible housing.
24. The proposal has been described as being a self-build scheme, which is claimed to be a form of affordable housing, supported by Policy DHG6 of the LP. There is no legal agreement before me which would secure the proposal as a self-build scheme or as any form of affordable housing. In the absence of any detailed submissions to suggest otherwise, I am unconvinced that a condition could meet the necessary tests at paragraph 56 of the Framework in this instance to require the proposal to comprise a self-build scheme. I therefore attach limited weight to this prospect in favour of the proposal.
25. The proposed development could be constructed to meet high energy efficiency standards and there may be opportunities to provide a biodiversity net gain and other environmental benefits which may be preferential to a chicken farming use. Limited details have been provided to show how these benefits could be achieved or the magnitude of any such benefit. I therefore assign modest weight to these potential benefits.
26. I note the appellant's reference to bus stops being within walking distance and town centres with train stations being within cycling distance of the appeal site. These do not convince me that the appeal site is a suitable location for new residential development, where safe walking and cycling opportunities would appear to be limited on account of the narrow and winding country lanes serving the site.

Planning Balance

27. The proposal would be located in an area where the Council's strategic approach to managing development discourages new residential development. It would also fail to conserve or enhance the landscape and scenic beauty of the AONB, causing significant and long-lasting harm to the character and appearance of the area. I assign substantial weight to the harm the proposal would cause in these regards. Collectively, the benefits of the proposal would be modest and would not outweigh that harm.

Conclusion

28. The proposal would conflict with the development plan taken as a whole and there are no material considerations that indicate my decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should not succeed.

Appeal B

Background and Main Issue

29. Article 3(1) and Class A, Part 6 of Schedule 2 of the GPDO permit the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building which are reasonably necessary for the purposes of agriculture within the unit, subject to

conditions and limitations. Those conditions include the need to apply to the local planning authority for a determination as to whether prior approval will be required as to the siting, design and external appearance of the building.

30. Article 3(1) and Class B, Part 6 of Schedule 2 of the GPDO permit the carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of the extension or alteration of an agricultural building where the development is reasonably necessary for the purposes of agriculture within the unit, subject to conditions and limitations. Development permitted under Class B is not subject to any conditions which require an application to be made to the local planning authority for a determination as to whether any prior approval will be required, unless if the building is located on article 2(4) land⁷. The appeal building is not located on article 2(4) land.
31. The Council has refused prior approval for the proposed development because it considers the existing barn is not within an existing agricultural unit and planning permission is required for the proposed development. Therefore, the main issue in Appeal B is whether the proposed development constitutes 'permitted development' under the provisions of Classes A or B.

Reasons

32. The application form states the total area of the entire agricultural unit covers 2.2 hectares. The proposal would not therefore fall within the description of permitted development at Class A.
33. The appellant has claimed that the development would accord with Class B. Even if that were the case, there is no need for an application to be made for prior approval for any development which may constitute 'permitted development' under the provisions of Class B if that development would not be located on article 2(4) land. The appellant has acknowledged this, but it remains unclear why prior approval has been sought.
34. Aside from the above, the appellant's own evidence explains that there is no agricultural use currently in existence at the appeal site and that the appeal site no longer forms part of an agricultural unit. It is claimed that the proposed development is necessary to enable any future agricultural use to take place. Be that as it may, this would not ensure that the proposal accords with the description of development permitted by Class B on the date of the application.
35. As the proposed development does not fall within the description of development permitted by Classes A or B, the proposal does not constitute 'permitted development'.

Conclusion

36. For the reasons given above I conclude that the appeal should be dismissed.

L Douglas

INSPECTOR

⁷ Defined at Part 2 of Schedule 1 of the GPDO as land within a National Park, the Broads, and other land within specified parishes.