



Appeal Decision

Site visit made on 6 July 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/U2235/W/22/3304984

Franks Barn, Blue House Farm, Battle Lane, Marden TN12 9AN

- 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 Stuart Kinnersley against the decision of Maidstone Borough Council.
- The application Ref 22/501746/FULL, dated 4 April 2022, was refused by notice dated 27 May 2022.
- The development proposed is conversion of barn to three bedroom dwelling; provision of parking/turning area and erection of detached 2-bay garage.

Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Maidstone Borough Council against Mr Stuart Kinnersley, and by Mr Stuart Kinnersley against Maidstone Borough Council. These applications are the subject of separate decisions.

Preliminary Matters

3. As part of the appeal submission, the appellant has put forward a Structural Survey. However, I am mindful that 'The Procedural Guide to Planning Appeals – England' states that the appeal process should not be used to evolve proposals and if amending the application will overcome the reasons for refusal a fresh application should be submitted. Moreover, it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I have had regard to the Wheatcroft Principles¹ and the interests of fairness. I have therefore determined the appeal on the basis of the plans and information about the structural condition of the building that were before the Council when it made its decision and on which parties were consulted.
4. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the use of the appeal building and land for residential purposes is lawful. If the appellant wishes to ascertain whether these uses are lawful, they may make an application under section 191/192 of the Act.
5. I understand that a draft Local Plan is at Regulation 22 stage, but this is at an early stage and has not been subject to examination. Consequently, in

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

accordance with paragraph 48 of the National Planning Policy Framework (the Framework) I give it limited weight.

Main Issues

6. The main issues are:

- whether the appeal site is a suitable location for the proposed development having regard to local and national planning policy for the delivery of housing and accessibility to services and facilities;
- whether it has been demonstrated that a reasonable attempt has been made to secure a suitable business re-use for the existing building on site;
- whether the building is structurally sound and capable of conversion; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Suitable location

7. Maidstone Borough Local Plan (MLP) Policy SS1 sets out the spatial strategy and the settlement hierarchy for the area. The proposal would be located outside any defined development boundary and, therefore, would be within an area of open countryside. Consequently, the proposal conflicts with the locational strategy of the development plan.
8. No substantive evidence has been provided to demonstrate that public transport is readily accessible near the appeal site. From my observations, the closest bus stops were located some distance from the appeal site on the B2079. The Council state that the bus stops offer an infrequent service between Maidstone and Goudhurst. This is not disputed by the appellant, and from my observations, I see no reasons to disagree.
9. The appellant states that Marden and Staplehurst, located to the south of the appeal site, offer a range of facilities and amenities. No frequent public transport is readily accessible to Marden and Staplehurst to access facilities and services in these locations. As such, when not using a private motor vehicle, occupier access to these locations would entail the use of unlit roads, which are narrow in places, with no pavements. The unlit nature of these routes and the lack of accessible verges would limit the prospect of future occupants of the proposed development using them to regularly access a range of services and facilities year-round. For those that did not have access to a private vehicle, the services and facilities in nearby towns and villages would not be accessible.
10. In support of the appeal site's location, the appellant has stated that the proposed dwelling would be a highly sustainable home incorporating renewable energy technologies and EV charging. However, this would not overcome my concerns regarding the absence of an appropriate environment for pedestrians and cyclists.
11. Furthermore, whilst elements of the proposed scheme may be supported in part by other policies, such as MLP Policy DM31, locating new residential development in remote locations such as this that are reliant on a private motor vehicle would be contrary to the overall aims of the development plan and the Framework.

12. As such, I conclude that the appeal site is not a suitable location for the proposed development and there would be a conflict with Policies SS1 and DM1 of the MLP. It would also conflict with Marden Neighbourhood Plan (MNP) Policy In2. Amongst other things, these policies seek to ensure development is directed towards sustainable locations within the borough that are that are accessible to all, and maintain and maximise opportunities for permeability and linkages to the surrounding area and local services. In addition, the proposal would also fail to accord with the Framework in respect of achieving sustainable development.

Re-use of existing rural buildings

13. Policy DM31 of the MLP permits the conversion of rural buildings in the Countryside, subject to a number of detailed criteria. I deal with criteria ii. and iii later as they are closely related to character and appearance. With regard to criterion 3 i. of DM31, the policy requires proposals for the re-use of existing rural buildings for residential purposes to ensure that every reasonable attempt has been made to secure a suitable business re-use for the building.
14. In support of the proposal, the appellant has stated that given the proximity of nearby residential properties and the existing access lane, the conversion would not be suitable for business or commercial use. Whilst unlikely to be able to support heavy goods vehicles, the access lane from Battle Lane is well surfaced and sufficiently wide enough to accommodate a range of other vehicles, including cars and small vans. Parking could also be accommodated close to the appeal building as shown on the submitted plans.
15. Even if I accepted the appellant's case that most nearby buildings have been converted, the evidence before me does not fully meet the policy requirement. The policy requires every reasonable attempt be made to secure a suitable business use for the building. There is no substantive evidence before me to indicate that the appellant has considered other potential options such as an office or holiday let. A viability assessment has been submitted with the appeal which sets out reasons why the property is not suitable for office or other commercial use. However, there is no evidence before me of any marketing exercise and for this reason it has not been demonstrated that every reasonable attempt has been made to secure a suitable business re-use.
16. In conclusion, the proposed residential use would conflict with Policy DM31 of the MLP, which only permits the re-use and adaptation of buildings in the countryside into dwellings where every reasonable effort has been made to secure a suitable business re-use for the building.

Building Conversion

17. MLP Policy DM31, amongst other things, requires buildings to be converted are of a permanent, substantial and sound construction and are capable of conversion without major or complete reconstruction.
18. At the time of my visit, the building appeared to be in a well-maintained condition. Behind the glazed doors, part of the building contained domestic paraphernalia. The remaining parts of the building included the open section containing various items, including small ride-on machinery. The building appeared to have power and had been boarded out with thin timber in places.

19. The appellant states that the building is of substantial and sound construction and that limited works would be required to convert the building to habitable accommodation. However, no structural assessment of the existing building was submitted with the application, or any form of method statement produced. Based on my observations, there would still be a need for some considerable internal and external works to the building to convert it to a habitable standard. As such, based on the limited evidence before me, I cannot be sure that the building can be converted without major reconstruction for the intended residential use.
20. The appellant has brought to my attention application ref: MA/20/505952/FULL. Whilst I do not have full details of this scheme, I note it was for a change of use of the existing building into holiday accommodation, including raising ridge height and addition of first floor with dormer. In this regard, the previous scheme is materially different to the appeal proposal. Furthermore, whilst not specifically stated in the reason for refusal I cannot be sure the Council did not have concerns over the structural condition of the building. Therefore, I cannot draw any direct comparison that weighs in favour of the proposal.
21. In conclusion, the proposed scheme has failed to demonstrate the building is capable of conversion without major or complete reconstruction. It would therefore conflict with Policy DM31 of the MLP.

Character and appearance

22. There is a strong rural character to the immediate area resulting from small groups of buildings with traditional appearances, including historic agricultural buildings many of which have been converted. These buildings are arranged along both sides of the access lane taken from Battle Lane in a fairly closeknit arrangement that could reasonably be described as being in a farmstead arrangement. In the wider area, a patchwork of open land and mature trees and hedges gives the area a verdant and rural appearance and character.
23. The proposed external alterations to the building would alter the character of the building with the insertion of small windows on the rear elevation, a door with glazing and large glazed windows to the front elevation. However, I find that the building would largely retain its rustic, agricultural appearance, particularly as matching timber and roof tiles are proposed. It would also be seen from most views with the recently converted building to the north, which contains large, glazed windows such that it would not appear incongruous or jarring with the surrounding built form or wider countryside.
24. The proposed garage and gravel surface would be seen within the context of the existing buildings and the close by residential properties. Consequently, these elements of the proposal, even when taking into consideration the size and scale of the proposed garage, would not have the effect of extending built development into an area of open land nor of eroding the open feel of the surrounding countryside.
25. There are a number of well-sized gardens found within the vicinity of the appeal site, including dwellings to the south and the recently converted building to the north. As such, the size of the garden would not be out of character with the surrounding area. Additionally, conditions on landscaping and the future addition of outbuildings could be imposed. This would ensure that the appeal

scheme would not alter existing views into, out of or through the site, which contribute to the character of the area.

26. The Council have stated that the appeal site sits within the Staplehurst Low Weald Landscape Character Assessment area. I have not been provided with a copy of the character assessment. Nonetheless, for the reasons set out above, the proposal would conserve the character and appearance of this part of the countryside, particularly when viewed from the surrounding area, including the lane and the nearby public right of way.
27. Therefore, for the reasons above, the proposal would accord with Policies SP17, DM1, DM30 and DM31 of the MLP for this main issue. It would also accord with MNP Policy BE4. These policies, amongst other things, require that new countryside development is of high quality, does not harm the character and appearance of the area and maintains local distinctiveness. In addition, the proposal would not conflict with the Framework in so far as it seeks to ensure developments are sympathetic to local character.

Other Matters

28. In reaching my decision, I have had regard to the fact that there would be some benefits from the addition of a new energy-efficient dwelling to the Council's housing stock. There would also be some economic benefits associated with the conversion of the building. However, given the scale of the scheme, these benefits would be small and the adverse effects of the proposal would significantly outweigh the benefits.
29. The appellant has drawn my attention to application ref:18/503721/PNQCLA that was granted under an application for prior approval. In this regard, the example provided is materially different to the appeal proposal, and therefore I cannot draw any direct comparison that weighs in favour of the proposal.

Conclusion

30. The proposal would not harm the character or appearance of the area. Notwithstanding this and for the above reasons, the proposed development would not be in a suitable location. Additionally, insufficient evidence has been provided to demonstrate that the building is capable of conversion without major reconstruction or that alternative uses have been adequately considered. As a result, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
31. Therefore, I conclude the appeal should be dismissed.

A Hickey MA MRTP

INSPECTOR