



Appeal Decision

Site visit made on 11 March 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/E2205/W/23/3327445

Land South of Wittersham Road, Wittersham, Ashford, Kent TN30 7PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gilbert against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/0586.
 - The development proposed is the change of use and conversion of an existing redundant and disused agricultural barn into a residential dwelling with associated alterations, landscaping enhancements, parking provision, existing vehicular access road to be retained and upgraded where necessary, including the demolition of an existing stable block, timber lean-to style awnings and smaller out buildings as well as the removal of a mobile home and a cabin.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use and conversion of an existing redundant and disused agricultural barn into a residential dwelling with associated alterations, landscaping enhancements, parking provision, existing vehicular access road to be retained and upgraded where necessary, including the demolition of an existing stable block, timber lean-to style awnings and smaller out buildings as well as the removal of a mobile home and a cabin. at Land South of Wittersham Road, Wittersham, Ashford, Kent TN30 7PX in accordance with the terms of the application, Ref PA/2023/0586 subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the High Weald Area of Outstanding Natural Beauty (AONB); and
 - whether there are any material considerations which indicate that a decision should be made otherwise than in accordance with the development plan.

Reasons

Character and appearance

3. The appeal site lies within the High Weald AONB. Paragraph 182 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB. I am also mindful of the statutory purpose of AONBs to conserve and enhance the natural beauty of the area.

4. Policy HOU5 of the Ashford Local Plan 2030 (2019) (ALP) states that development in the countryside will only be permitted if the proposal is for specific types of development. Of particular relevance is the re-use of redundant or disused buildings which lead to an enhancement to the immediate setting.
5. The appeal site was the subject of an earlier appeal¹ for a similar development. The Inspector for the previous appeal described the property as being located in the Lower Rother Valley Kent Character Area which is described as a varied landscape of fields and wooded areas. The appeal site and its setting are mainly pleasant undeveloped open grassed land with wooded areas, including an area of ancient woodland close by, and as such it makes a positive contribution to the landscape and scenic beauty of the AONB and the surrounding countryside.
6. The site and its surroundings have not altered, and this description adequately reflects the current circumstances of the site and the locality. The proposal is similar to that of the previous appeal. However, the differences include a change in material finish and layout of fenestration. The layout of the wider site is similar to the previous appeal scheme, although there would be a larger area of hardstanding for refuse vehicle turning and two passing bays either side of the access. On this basis, I see no reason to disagree with the conclusion of the previous Inspector in respect of the effect of the proposal on the character and appearance of the area, including the AONB.
7. The proposal would have a harmful effect on the character and appearance of the area, including the High Weald AONB. The development would therefore conflict with Policies SP1, HOU5, and ENV3b of the Ashford Local Plan 2030 (2019) (ALP) which together seek high quality design which responds to the prevailing character of the area and to landscape characteristics leading to an enhancement to the immediate setting and the Framework, which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB.
8. The Council has referred to Policy SP2 of the ALP, which sets out a high level strategic approach to housing delivery. As such, the other policies listed are more relevant to this main issue.

Other material considerations

9. There is an extant planning permission under reference 22/00570/AS for the change of use to offices. While the proposal is for the use of the building as a dwelling, the external appearance of the approved scheme would be substantially similar to that of the proposed development. The extant permission also includes extensive landscaping works incorporating the wider site in a similar form to the proposal.
10. The current proposal would have a reduced area for parking, but would include a larger area of hardstanding relating to the refuse vehicle turning area. However, to the casual bystander, there would be little discernible difference between the two schemes, both of which would urbanise the site. While the permission has not yet been implemented, and thus does not currently

¹ W/4000610

comprise an employment site, the presence of an extant permission for a considerably similar scheme attracts very substantial weight.

11. The proposal would make a positive contribution to housing supply with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, the contribution of a single dwelling to meeting housing need in the Borough and the associated benefits are limited by the scale of development proposed.

Planning Balance

12. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal conflicts with the aforementioned policies of the ALP, with the associated conflict reflecting harm to character and appearance of the area, including the High Weald AONB. The development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
13. The appellant suggests that the Council is unable to demonstrate a five year supply of deliverable housing land. The Council has not disputed this assertion. Paragraph 11 d) i) of the Framework states that in these circumstances permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. Footnote 7 clarifies that this applies, amongst other things, to policies in the Framework relating to land designated as an AONB.
14. The proposed development would have a harmful effect on the AONB. Therefore, the application of the policies in the Framework provide a clear reason for refusing planning permission. Consequently, the proposed development does not benefit from the test set out in paragraph 11 d) ii) of the Framework.
15. Ordinarily, as I have identified harm to the AONB, this would comprise a clear reason to dismiss the appeal. However, the specific circumstances comprising the presence of the extant planning permission represents a reasonable fallback position. Given the considerable similarities between the approved scheme and the proposal, including the visual effect on the character and appearance of the area, this fallback scheme attracts very substantial weight.

Conditions

16. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
17. A condition requiring the submission of a Construction Management Plan is required to safeguard the living conditions of local residents and to prevent adverse impacts on the local road network during the construction phase. As such, it is necessary for this condition to be discharged prior to the commencement of the development.
18. A condition is included to prevent discharge of water onto highway land. As this detail relates to the access, it is necessary for this condition to be discharged prior to the commencement of the development.

19. The quality of the environment, including the AONB landscape, would be protected by conditions in respect of external materials, biodiversity enhancements and external lighting. A condition is included requiring precise soft landscaping details to ensure the provision and retention of the landscape enhancements.
20. A condition is included to provide details of the covered cycle parking and Electric Vehicle Charging Points and to retain the infrastructure thereafter. This is required to encourage sustainable modes of transport and improve the sustainability of the development.
21. Adequate parking would be secured by a condition, whilst the provision and retention of visibility splays would ensure safe and secure access to the site. A condition is also included in respect of contamination in the interests of public safety.
22. The removal of permitted development rights should only be used in exceptional circumstances. In this instance the justification to prevent further subdivision of the field, and therefore protect the scenic beauty of the AONB, comprises an exceptional circumstance which supports the removal of permitted development rights regarding fences, gates or walls and in respect of the extension or alteration of the building.

Conclusion

23. The proposed development would conflict with the development plan. However, material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development permitted shall be carried out in accordance with the following plans: 2304 001_I, 2304 004_J, 2304 005_H, 2304 006_H, 2304 011_H, 2304 012_G, 2304 013_C and Oak_19-053_.
- 3) Prior to the commencement of the development hereby permitted, including any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The works shall be carried out and maintained in accordance with these details, which shall include the following:
 - a) Routing of construction and delivery vehicles to and from the site;
 - b) Parking and turning areas for construction and delivery vehicles and site personnel;
 - c) Timing of deliveries;
 - d) Provision of wheel washing facilities; and
 - e) Temporary traffic management and signage.
- 4) Prior to the commencement of the development hereby permitted, details of measures to prevent the discharge of water onto the highway shall be submitted to and approved in writing by the local planning authority and the works shall be carried out and maintained in accordance with these details.
- 5) Prior to the occupation of the development hereby permitted, the visibility splays as shown on drawing number 2304 013_A shall be provided and thereafter retained for the lifetime of the development. There shall be no obstructions over 1.05 metres above carriageway level within the visibility splays.
- 6) Prior to the occupation of the development hereby permitted, details of the surface material to be used for the access road (including passing places) as shown on drawing number 2304 004_J shall be submitted to and approved in writing by the local planning authority and the works shall be provided and thereafter retained for the lifetime of the development.
- 7) Prior to the occupation of the development hereby permitted, the areas shown on drawing number 2304 004_J for vehicle parking, bicycle storage, loading, unloading and turning shall be provided and thereafter retained in this form at all times. The vehicle parking areas shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.
- 8) Prior to the occupation of the development hereby permitted, details of Electric Vehicle Charging Points (EVCPs) shall be submitted to and approved by the Local Planning Authority. The EVCPs shall be maintained thereafter (unless replaced with equivalent or uprated replacements) for the lifetime of the development.

- 9) Prior to the occupation of the development hereby permitted, details of covered and secure cycle parking spaces shall be submitted to and approved in writing by the local planning authority. The cycle parking spaces shall thereafter be retained for the lifetime of the development.
- 10) Prior to the occupation of the development hereby permitted, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the local planning authority. The plan shall show the type and locations of external lighting, demonstrating that areas to be lit will not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.
- 11) Within six months of works commencing, details of how the development will enhance biodiversity shall be submitted to and approved in writing by the local planning authority. This shall include a native species-only planting schedule and management prescriptions for the wildflower grassland. The approved details shall be implemented and thereafter retained.
- 12) The development shall be carried out in accordance with the details of external materials specified in the application and shall thereafter be retained.
- 13) All planting, seeding or turfing comprised in the landscaping details shown on drawing number 2304 004_J shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

14) Part 1

If unexpected contamination is found at any time when carrying out the development hereby permitted, it must be reported in writing to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2.

Part 2

Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the local planning authority.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or other alteration (including front porches, additions to roofs) shall be made to the dwellinghouse hereby permitted.

End of Schedule