
Appeal Decision

Site visit made on 19 March 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th April 2025

Appeal Ref: APP/U1430/W/24/3352321

Telham Forge, Hastings Road, Battle, TN33 0SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs M Payne (Southern Caravan Services) against Rother District Council.
 - The application Ref is RR/2024/914/P.
 - The development proposed is a change of use to allow mixed use of existing ancillary office building as a residential dwelling with office and welfare facilities to serve the existing business.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal follows the failure of the Council to determine the application within the required timeframe. Following the submission of the appeal the Council determined that it would have refused the application. The putative reasons for refusal relate to the location of the site outside a defined settlement boundary and the unjustified loss of employment use.
3. The application forms indicate that the residential use would have two bedrooms. The submitted drawings and appeal statement refer to there being one bedroom. For the avoidance of doubt, I have determined this appeal on the basis of there being a single bedroom.

Main Issues

4. The main issues are the suitability of the site's location for the proposed development; and the loss of employment floorspace.

Reasons

Location

5. The site is located amongst a small ribbon of buildings adjacent to the A2100. These buildings, which comprise a mix of residential, commercial and community uses, are located to the northwest of Hastings and are, in planning policy terms, within the open countryside and outside any defined settlement boundary.
6. Collectively, Policies RA3 of the Rother Local Plan Core Strategy (LPCS), DIM2 of the Development and Site Allocations Local Plan (DaSA) and HD1 of the Battle Neighbourhood Plan (BNP) seek to focus development within settlement boundaries and resist new residential development in the open countryside. This

approach is broadly consistent with national policy and ensures that development occurs close to existing services and facilities, which in turn reduces the need to travel and also protects the open countryside from inappropriate sporadic development.

7. The development plan policies do provide for a limited number of circumstances where new residential development in the open countryside would be considered acceptable, such as to support farming operations or the conversion of historic farm buildings. The proposal does not comply with any of the listed exceptions.
8. However, the Council's additional statement submitted with this appeal acknowledges that the site is not in an isolated location and is reasonably close to local services and facilities. Given the site's location, the reality is that for most day-to-day needs there would be a heavy reliance on the use of a private vehicle but there are some sustainable travel options available via public transport and cycling. That the accommodation would comprise only one bedroom and could be linked to the operations on site, would help limit the number of occupants and journeys.
9. Furthermore, the building already exists and so would not lead to additional sporadic development in the area. The officer report for the previous proposal accepted that the conversion of a larger part of the building to residential use would not have caused harm in this regard. The effect of the current proposal on the character and appearance of the area is similarly not a contentious issue in this appeal.
10. Therefore, while the proposal would conflict with the locational requirements of Policy RA3 of the LPCS, Policy DIM2 of the DaSA and Policy HD1 of the BNP, for the reasons given above, the level of harm is limited.

Loss of Employment Floorspace

11. Policy DCO1 of the DaSA seeks to ensure that sites of economic value are not lost or undermined and so there is a requirement to demonstrate evidence of both marketing and an absence of financially viable alternative commercial or community uses. Where a viable reuse or mixed use is not viable, Policy DEC3 prioritises alternative community uses, affordable housing and then market housing subject to local needs.
12. It is contended that the use has not commenced and so the proposal would not represent the loss of employment floorspace. Furthermore, the existing permission is linked to the existing operations on site. As such, if the proposal were rejected it is said that the building would remain largely vacant and thus not an effective use of the space.
13. However, I am mindful that the permission remains extant and so would contribute to the overall stock of permitted employment floorspace within the district. Even if this appeal were allowed, the use of the accommodation for office space would remain a valid fall-back position until such time as any new use commenced.
14. I also note that there is no suggestion from the appellant that the retained welfare and office space are not required. Indeed, the appeal statement notes that these would meet the needs of the business. Given that the building is on site and at the time of my site visit appeared to be in the process of being fitted out internally, it

seems likely that it would be occupied before too long and thus the permission implemented. In view of all of the above, I therefore consider it reasonable to treat the proposal on the basis of it contributing to a loss of employment floorspace.

15. The extant permission currently limits the accommodation in the appeal building to be used in connection with the existing commercial operations. However, the appellant is not prevented from seeking to modify the extant permission. The building may have been justified on the basis of the existing operations, but the reasons for the condition limiting the use were to retain an existing employment site and protect the character of the area. An additional employment user on site would not necessarily run counter to the reasons for the condition.
16. With regard to an additional occupier on site, I am mindful that the appellant indicates that health and safety considerations would prevent anyone else occupying part of the building. There are few details to explain why this is the case and demonstrate how another occupier would interfere with the wider business and its needs.
17. Some reasons are given such as the access, parking and proximity of the storage building. However, as the access is established and runs past the workshop building it is not clear why it would matter whose vehicle were using the access. Similarly, if there is a need for less office space for the existing business, this would potentially free up parking space. Given that there would be a laid-out parking area it is unclear why the proximity of the storage building, which at the time of my site visit comprised little more than a concrete base, would be problematic.
18. I also note that the accommodation is said to be for the appellant's son, who works on site. There is no functional need put forward but even if the appeal were allowed and required the residential use to be linked to the commercial use, it would not prevent family/dependants from living or visiting the site. It is not clear why there would be no health and safety implications in those circumstances but there would be for an additional commercial occupier.
19. There is no clear explanation, why, after such a short period of time after the permission was granted, there is no longer a business justification for a building of this size. Given that the building is already on site, this lack of need seems very sudden and yet there is an absence of detail with the appellant's submissions. As such, there is no certainty whether there could equally be a sudden turn around and that there would be a future business need for the accommodation.
20. The proposal is said to represent the efficient use of the building. However, the lack of information to support the proposal does not give me confidence that this is the only possible way in which the building could effectively or efficiently be used.
21. I have no reason to doubt the appellant's initial intentions with regards to the use of the building. However, without some details to help explain how the situation has evolved and justify the proposal, reusing a building intended for employment purposes without it ever having been used for its intended purpose risks undermining the Council's employment-based policies and weakening its strategy for such accommodation.
22. Even allowing for the information provided by the appellant, the proposal has not robustly demonstrated that there is no reasonable prospect of a continuing

commercial use for the accommodation and that the proposal is the only likely alternative. As such, it would not accord with Policies DCO1 and DEC3 which together seek, in relation to this matter, to resist the loss of local employment floorspace for non-employment purposes other than in certain circumstances.

Other Matters

23. The Council is unable to demonstrate a five-year supply of deliverable housing land and indicates that there is a 3.09 years supply. This demonstrates that the Council's spatial strategy is not achieving the level of housing growth expected by national policy
24. If the accommodation were to be occupied in connection with the business, there would be some productivity benefits but the scale of such benefits is unknown. There may be some security benefits too, but these could be achieved by other means and there is no functional need for a person to be resident on site. The positive weight attributable to these factors is therefore very limited.
25. There are also said to be energy and efficiency measures that could be utilised. The extent of these measures and the scale of benefits are unspecified. They are also increasingly commonplace generally and a growing part of the building regulations. Bat/bird boxes could be installed although they would not necessarily be dependent upon the residential use taking place. I therefore give these matters only a small amount of positive weight.
26. The proposal is said to meet various requirements such as the Nationally Described Space Standards and would not cause harms such as to neighbours' living conditions, trees, flood risk etc. However, these matters represent a lack of harm and so are neutral factors in the planning balance.
27. The appellant refers to the site being brownfield land and that the National Planning Policy Framework (the Framework) supports its reuse for housing. However, Paragraph 125 gives substantial weight to the value of using suitable brownfield land within settlements for homes but that does not apply here. As such, this is not a reason to allow the appeal.
28. The stated lack of engagement by the Council with the appellant prior to the appeal is an administrative matter for the Council to address. I have focussed on the planning merits of the case.

Planning Balance

29. The proposal would be located outside of the settlement boundaries. While there is conflict with the development plan in this regard, given my conclusions on this main issue, I give this conflict limited weight.
30. The proposal would also be contrary to the policies which govern the provision and retention of employment floorspace. Whilst the amount of floorspace is modest, it is an unjustified loss and there is nothing before me to indicate that this policy approach is out of date. This weighs heavily against the appeal proposal.
31. As the Council cannot demonstrate a five-year housing land supply and because there are no policies in the Framework which offer a clear reason for refusal, Paragraph 11(d)(ii) of the Framework is engaged.

32. The Framework's policies seek to boost the supply of housing. The proposal would provide a small unit of accommodation which the appellant indicates are not often provided in the district. It is a development that could come forward quickly. However, given the scale of the development, the benefits of the proposal would overall be very modest.
33. Conversely, while I have found limited harm in relation to the site's location the proposal would result in the unjustified loss of employment floorspace. The Framework states that significant weight should be placed on the need to support economic growth and productivity as well as a prosperous rural economy. The proposal therefore runs counter to the approach set out in national policy.
34. In this instance, the loss of employment floorspace without sufficient justification would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.

Conclusion

35. The proposal would raise harms which would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR