



Appeal Decision

Site visit made on 24 July 2025

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th August 2025

Appeal Ref: APP/E2205/W/25/3361732

The Old Saw Mill, Church Lane, Hastingleigh, Kent TN25 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Caroline Gilson of Hastingleigh Holiday Lets against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/2213.
 - The application sought planning permission for the change of use of redundant agricultural buildings to holiday lets without complying with a condition attached to planning permission Ref 05/01494/AS, dated 27 October 2005.
 - The condition in dispute is No 5 which states that: *"No person shall occupy the tourist accommodation for more than 8 weeks in any one calendar year"*.
 - The reason given for the condition is: *"Permanent residential occupation would be contrary to development plan policies for the countryside"*.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of redundant agricultural buildings to holiday lets at The Old Saw Mill, Church Lane, Hastingleigh, Kent, TN25 5HN in accordance with the terms of the application, Ref PA/2024/2213, subject to the following conditions:
 - 1) The development shall be occupied as holiday accommodation only and shall not be occupied as independent dwellings or as sole or main places of residence by any persons.
 - 2) A record of the occupancy of the tourist accommodation shall be kept and made available to the local planning authority for inspection upon request.
 - 3) Unless within 3 months of the date of this decision details of the disposal of sewerage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site for holiday lets shall cease. Upon implementation of the approved sewerage details, those works shall be retained as such thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Main Issue

2. The main issue is whether the condition is necessary having regard to the location of the site in the countryside.

Reasons

3. The appeal site includes parts of two buildings set with a complex of former agricultural buildings. Apart from a handful of dwellings opposite, the whole complex is surrounded by fields and it is not disputed that the site is within the open countryside.
4. The Stables is a building in the east part of the complex, divided into three units. The appeal relates to Nos 1 and 2 The Stables which are in use as holiday lets at the east end of the building, but not No 3. Mill Cottage is a separate building in the west part of the complex which is divided into three holiday lets and a communal games room. The appeal relates to Nos 1, 2 and 3 Mill Cottage, not the games room. In total, the appeal relates to five holiday lets. The appellant wishes to extend the time limit for occupation of these holiday lets as set out in condition 5, from 8 weeks to 24 weeks.
5. Condition 3 of the extant planning permission stipulates that the accommodation shall not be used as an independent dwelling. Furthermore, the description of development to which the planning permission relates, is for holiday lets. As such, even with condition 5 removed entirely, the units could not be occupied other than as holiday lets and not as independent dwellings. Indeed, this would prevent the occupation of the units on a semi-permanent basis such as by people in the process of moving house.
6. As such, although the appellant proposed to vary condition from 8 weeks to 24 weeks, I consider that there is no reason for a condition of this nature to be imposed at all. The development without the condition in place would not result in an independent dwelling being provided in the countryside, and instead the development would sustain the existing tourist accommodation on site. It would therefore accord with policy EMP11 of the Ashford Local Plan (2019) which supports the retention of existing tourist facilities.
7. By allowing this appeal, a new planning permission would be created. The Planning Practice Guidance (PPG) states that in granting permission under section 73, new conditions may be imposed, provided they do not materially alter the development and are conditions which could have been imposed originally. In that context, I have had regard to the planning permission granted for a separate holiday let at The Old Saw Mill¹ granted in 2019, which contains no time limit on occupation but does, in condition 3, prevent occupation by any person as their sole or main place of residence. This is comparable, in its aims, to condition 3 on the extant permission for the appeal site. It would be advantageous to amend the wording of condition 3 of the extant permission to more closely reflect condition 3 on the 2019 planning permission for the sake of consistency across the complex, particularly as both developments would benefit from planning permissions considered under the same development plan policies. Also, even though the appeal proposal relates to more units than the 2019 permission, there is no reason why a similar condition in this case would not be appropriate.

¹ Ref 18/1858/AS

Conditions

8. The guidance in the PPG also makes it clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect.
9. Clearly it is not necessary to impose the conditions relating to the commencement of development or the materials used as the development has been operational for some time. The appellant suggests sewerage details, as required by condition 6, were submitted, but it is not known if the condition has been formally discharged. As such, I have reimposed a version of it, amended to reflect that the development has already commenced. In the event that condition 6 has in fact been discharged, that is a matter which can be addressed by the parties.
10. As set out above, the condition restricting the use of the buildings is necessary to ensure they do not become permanent dwellings. The parties views were sought on a version of this condition and, having taken their views into account, I have combined the key elements of condition 3 from both extant permissions. The condition requiring that a record of occupants is maintained is necessary to ensure compliance with the previous condition and ease enforceability.

Conclusion

11. The development without the disputed condition in place, and with an amended version of condition 3 would accord with the development plan as a whole. Therefore, for the reasons given, the appeal should be allowed.

A Owen

INSPECTOR