Planning Inspectorate

Appeal Decision

Site visit made on 25 August 2026

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2026

Appeal Ref: APP/C1435/C/23/3335695
Land at The Griffin Inn, High Street, Fletching, East Sussex TN22 3SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Young & Co.'s Brewery PLC against an enforcement notice issued by Wealden District Council.
- The notice was issued on 16 November 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of an outbuilding ("the Outbuilding") in the approximate position shown coloured green on the attached plan.
- The requirements of the notice are:
  (i) Demolish, dismantle and remove the Outbuilding from the Land
  (ii) Break up and remove the brick hardstanding surrounding the Outbuilding from the Land
  (iii) Remove from the Land all debris, materials, tools, equipment, rubble and rubbish arising from compliance with the above requirements.
- The period for compliance with the requirements is: 3 months
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an outbuilding, at The Griffin Inn, High Street, Fletching, East Sussex TN22 3SS, as shown on the plan attached to the notice.

Preliminary Matter

2. Since the enforcement notice was issued, the National Planning Policy Framework (the Framework) has been revised. Both main parties were provided with an opportunity to comment on the implications of this for this appeal and any comments made have been taken into account in my reasoning.

Reasons

Ground (d)

3. An appeal on ground (d) is that it was too late for the Council to take enforcement action due to the time limits set out in section 171B of the 1990 Act. In a ground (d) appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities and the decision must be made on the evidence provided. If there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

4. At the time the enforcement notice was issued, section 171B(1) of the 1990 Act provided that where there has been a breach of planning control consisting in the carrying out without planning permission of building operations (as is the case here), no enforcement action may be taken after the end of the period of 4 years beginning with the date on which the operations were substantially completed.

5. Pursuant to ground (d), the appellant refers only to a brick structure, said to have been in place since 2008. But from all of the information available to me, including my observations at my site visit, the appeal development before me is a single storey aluminium pergola-like structure.

6. This pergola structure has openable timber louvered panels on its garden facing elevations and rotating blades in its roof, that can be opened, as was demonstrated to me at my site visit. Behind the pergola structure is a full-height brick wall which has been attached to the pergola structure by timber joists. These joists support a pitched roof, made of clear corrugated plastic.

7. Based on the information provided, the 'brick structure' referred to is a low brick wall enclosure that was used as a barbecue and outdoor food preparation area. It has been adapted (with parts of it removed) and converted into a garden kitchen, within the pergola structure. The brick structure is now subsumed by the pergola structure, particularly when the timber louvered panels of the pergola are closed.

8. The appellant considers that the brick structure is immune and that the enforcement notice should be explicit as to which elements of the structure within the green area on the plan are subject to the enforcement notice requirements. But as has been established in case law, it is possible to conclude that there is a 'new building' even where parts of the 'old' building remain. From all of the information available to me, this is the case here.

9. As a matter of fact and degree, an entirely new building has been constructed, even though the new structure includes parts of existing buildings, ie the low brick structure and the full-height brick wall to the rear of the pergola structure.

10. In light of the above, there is no need for the notice to be corrected and its requirements are clear. The appellant has not succeeded in demonstrating that the appeal development was substantially complete 4 years prior to enforcement action being taken. Therefore, it was not too late for the Council to take enforcement action, due to the time limits set out in section 171B of the 1990 Act. As such, the appeal on ground (d) fails.

Ground (a)

11. An appeal on ground (a) is that planning permission ought to be granted for the matters stated in the notice.

12. In its reasons for issuing the enforcement notice, the Council identifies that the appeal development is within the High Weald Area of Outstanding Natural Beauty (AONB), the Fletching and Splaynes Green Conservation Area and the curtilage of a grade II listed building, 'The Griffin Inn'.

13. Since the notice was issued, all designated AONBs have become 'National Landscapes' and so the High Weald AONB became the High Weald National Landscape (HWNL). As set out in The Countryside and Rights of Way Act 2000, the primary purpose of this designation is to conserve and enhance the area's

natural beauty, (although the purpose of conserving and enhancing is to be read as disjunctive rather than conjunctive).

14. The Levelling-up and Regeneration Act 2023 amended the above Act such that, in performing functions that affect land in National Landscapes, decision makers must 'seek to further' the purpose for which these areas are designated. So this is a statutory duty upon me in deciding this appeal.

15. The Fletching and Splaynes Green Conservation Area is a designated heritage asset and there is a statutory duty upon me, under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of this area.

16. In considering whether to grant planning permission for the appeal development, for any listed building there is a statutory duty upon me under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

17. The listed building is a heritage asset and the glossary of the Framework defines the setting of a heritage asset as:

"*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*

18. In light of all of the above, including the identified statutory duties, the single main issue in the ground (a) appeal is the effect of the appeal development on the character and appearance of the area, having particular regard to its location within the HWNL, the Fletching and Splaynes Green Conservation Area and the setting of 'The Griffin Inn' as a grade II listed building.

Character and Appearance

19. In summary, the AONB Management Plan defines the High Weald's natural beauty as a small-scale, heavily wooded, medieval cultural landscape characterised by dispersed historic settlement, ancient woodland, irregular fields and hedgerows, historic routeways, dark skies, tranquillity, biodiversity and a strong sense of history and rurality. These features combine to create a distinctive and recognisable landscape of national importance.

20. In terms of the Fletching and Splaynes Green Conservation Area, from the information before me, I find that its significance, insofar as it is relevant to this appeal, derives from the historic ribbon of development along Fletching High Street, including its concentration of historic buildings and traditional built frontages, contrasted with the more open and green character of land to the rear.

21. The appeal development sits within the extensive rear garden of 'The Griffin Inn' listed building. This is an 18th century public house, later altered in the 19th century. From the evidence before me, its significance for the purposes of this appeal derives from its historic economic and social contribution to the rural settlement of Fletching and its historic architectural character and detailing, including its High Street frontage, which is characterised by painted brickwork, a

string course, a half-hipped tiled roof, surviving glazing bars and distinctive gabled timber hoods over the doorways.

22. As has been identified by the Parish Council, the rear garden of The Griffin Inn is secluded. It is enclosed by buildings and/or mature planting except for its western boundary. From the west there is a view into the site from the wider HWNL. But as was clear from my site visit, even when looking back at the appeal development from the west, it is seen with the larger main building or its coach house behind it and it is set under a tree with mature planting around it. As such, the structure is sensitively located and does not constitute any sort of harmful silhouette in the landscape.

23. Moreover, the appeal development is limited in scale, largely occupies the site of the substantial former barbecue structure and is discreetly located. It is concealed in some views by other buildings or mature planting. Otherwise, it is seen within the context of other public house paraphernalia, including a substantial amount of picnic tables, parasols and garden chairs. In this context, I do not find the appeal development to be intrusive, incongruous, visually dominant or harmful. It appears as a relatively inconspicuous garden structure, in-keeping with its immediate surroundings.

24. In terms of its effect on the setting of the listed building, the appeal development is located a considerable distance from The Griffin Inn and a comfortable distance from its coach house, such that it is away from the surroundings in which these historic buildings are experienced. In its delegated report on an associated planning application (Ref: WD/2023/1865/FR), the Council has referred to “other surrounding listed buildings”. But the Council’s case is not further substantiated in this regard and in any event, I am satisfied that the enclosed nature of the appeal site, with its boundary treatments, means that the appeal building does not affect the setting of other listed buildings which may surround it either.

25. The Council has described the building as being in “a very prominent position in the landscape with views into the conservation area from the east including from Sheffield Park”. But this point has not been further substantiated and I have not been directed to any specific viewpoints to consider in this regard. Moreover, this point does not reflect my experience at my site visit where, having walked all-round the pub garden, I found the appeal development to be well concealed from views outside of the site, within a secluded garden which is demarcated into separate areas, with only glimpses of it possible from outside the site, mitigated by its backdrop of mature vegetation. Within the site, views of the appeal building are mitigated by its context, where it is seen within the context of other public house paraphernalia, as described above.

26. At my site visit I saw the metal extraction chimneys on the roof of the appeal building. Whilst they are not attractive features, I do not find them to be unduly prominent or harmful, in terms of their effect on the character and appearance of the area.

27. Taking all of the above into account, I conclude that the appeal development does not harm the character or appearance of the area. In this regard, it preserves the character and appearance of the Fletching and Splaynes Green Conservation Area and its significance, it conserves the natural beauty of the HWNL and it

preserves the setting and significance of 'The Griffin Inn' as a grade II listed building.

28. Accordingly, in light of the above, I find no conflict with Wealden Core Strategy Local Plan 2013 Policies SPO2, SPO13, WCS14, or Wealden Local Plan 1998 Policies GD2, EN6, EN27, or Chapter 12 of the Wealden Design Guide 2008, or Framework Policies HE4, HE5, HE6 or N4.

Other Considerations

29. The Framework is a material consideration of critical importance and its policies must be taken into account in decision-making. Policy S3 states that outside settlements, policy S5 should be applied and in all locations, development proposals that accord with both an up-to-date development plan and the decision-making policies in the Framework should be approved without delay.

30. As is identified in paragraph 4.ii) of the enforcement notice, the outbuilding is on land outside of any defined development boundary. Therefore, Policy S5 of the Framework applies. This states that only certain forms of development should be approved outside settlements. It provides a specific list of these developments and states these should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework.

31. The list includes items b. and c. as follows:

    b. Development for rural businesses and services, including tourism, where a location outside settlements is shown to be necessary.

    c. The reuse, extension, alteration or replacement of an existing building, provided that the existing building is of permanent and substantial construction, is lawful in planning terms, and any extension or alteration will not result in a disproportionate increase in size compared to the existing building. In the case of proposals for a replacement building, it should be for the same use and not disproportionately larger than the one it replaces.

32. Either or both of these items are pertinent to the appeal development in this case. I have been provided with no reason to think otherwise, bearing in mind the rural location of The Griffin Inn and the appellant's evidence that the brick barbecue structure had been in place since 2008, a point not contested by the Council. From the information provided, the footprint of the pergola structure is not disproportionately larger than the previous brick structure. It is also relevant that the previous structure was used with evidently used with parasols. I find the pergola structure to be no more visually harmful than that arrangement, particularly in terms of height.

33. Moreover, there is no argument before me that the development plan in this case is not up-to-date for the purposes of this appeal. In light of the above, there is nothing in Policy S3 or S5 to lead me to a different overall conclusion on the ground (a) appeal.

Conclusion on ground (a)

34. For the above reasons, the appeal development accords with the development plan, when read as a whole. Material considerations do not indicate a decision

should be taken other than in accordance with the development plan. I therefore conclude the ground (a) appeal should be allowed.

Conditions

35. No conditions have been suggested that the appeal development should be subject to. Nor, based on the information provided, are there any that I consider are necessary.

Conclusion

36. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the outbuilding as described in the notice. The appeal on ground (f) does not therefore fall to be considered.

L Perkins

INSPECTOR