



Appeal Decision

Site visit made on 26 January 2016

by **Andrew Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2016

Appeal Ref: APP/V2255/W/15/3133029

Land adjacent to Rushett Bungalow, Rushett Lane, Norton, Faversham ME13 0SG

- 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 D Petherick against the decision of Swale Borough Council.
 - The application Ref 14/502507/FULL, dated 25 July 2014, was refused by notice dated 2 March 2015.
 - The development proposed is the change of use from stables to office and workshop B1 use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from stables to office and workshop B1 use at land adjacent to Rushett Bungalow, Rushett Lane, Norton, Faversham ME13 0SG in accordance with the terms of the application, Ref 14/502507/FULL, dated 25 July 2014, subject to the 8 conditions listed in the schedule at the end of this decision.

Preliminary Matters

2. I understand that the use of the stables as office and workshop has begun, albeit that further works are proposed to the buildings to support the business use. Information in support of the appeal suggests that the use of the building may have become lawful through the passage of time. However, it is not for me, under a section 78 appeal, to determine whether or not that use has subsisted since 2004. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Act regardless of the outcome of the appeal.
3. I note that there is a long history of planning applications and enforcement investigations on this site, including field shelters in the adjacent field. However, these matters are not the subject of this appeal and the appeal must be determined on its own merits.

Main Issues

4. The main issues in this case are the effect of the proposed development on the character and appearance of the rural area with particular regard to the activity taking place and the proposed alterations to the building; and suitability of access.
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Reasons

5. The proposed development includes works to the building comprising a pitched roof over the existing flat roof and insertion of a number of windows and doors. The revised roof would not have a harmful impact on the character and appearance of this rural area as it reflects the design of the remainder of the building and is a typical feature of rural buildings. Whilst the building is enlarged by that roof, it would not substantially increase the built form on the site.
6. The proposed windows are modest in size and utilitarian in design and, where possible, would be inserted in or enlarge existing openings. Views of the rear of the building, where most of the new openings are located, are blocked by the existing tall hedge on the site boundary.
7. As such, the proposed alterations would not cause harm to the character and appearance of the rural area.
8. The lane and access to the site are narrow and vehicles associated with the use of the building supporting other rural businesses can be large. Given this is a rural area, it is likely that large agricultural machinery and vehicles regularly use the surrounding road network, including Rushett Lane, such that the limited amount of traffic visiting this site does not materially add to the amount of traffic using the lane. In addition, no evidence has been submitted to demonstrate that the use of this access leads to adverse impacts on highway safety.
9. The size and nature of the building suggests that there is limited employment within the building such that the amount of traffic accessing the site is limited. This needs to be balanced against the location some distance from services and public transport links. Given the nature and scale of the business use in supporting other rural businesses, I conclude that the use does not lead to unsustainable transport patterns.
10. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development, defined as development in accordance with the Framework as a whole. Sustainable development has three dimensions that must be considered together, being economic, social and environmental.
11. The Framework supports the sustainable growth and expansion of businesses in rural areas, including through conversion of existing buildings. Policy E6 of the Swale Borough Local Plan (LP) reflects that, subject to more detailed criteria in Policy RC1 that seeks to revitalise the rural economy where the development is in scale with its locality and would not detract from landscape interest, character or appearance and avoids unsustainable transport patterns.
12. In conclusion therefore, the business use provides social and economic benefits in providing jobs and services in the rural economy. The location of the development is away from services and facilities, but given the scale of the business use this does not significantly and demonstrably outweigh the benefits of the development, such that it accords with the principles of sustainable development outlined in the Framework. On that basis, the development would protect the countryside, would not cause material harm to the character

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and appearance of the rural area and would provide suitable access, complying with the Framework and Policies E6 and RC1 of the LP.

Conditions

13. As the change of use of the building forming part of the development proposed has begun, no implementation condition is required. A condition listing the approved plans is required for the avoidance of doubt and in the interests of proper planning.
14. The purpose of condition 2 is to require the appellant to comply with a strict timetable for dealing with materials, landscaping and loading, off-loading and parking, which need to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.
15. A condition is required for details of materials for the new roof to be submitted to ensure that they would maintain the character and appearance of the existing building and surrounding area. There are no other changes to the building for which details of materials are necessary. Details of landscaping works, including details of hard surfacing and means of enclosure, are also required by condition in order to ensure the development will reflect the character and appearance of the area and conditions are required to ensure these are maintained in the future. Conditions are required to restrict the hours of work to protect the living conditions of neighbour occupiers and storage of materials outside should be restricted to protect the character and appearance of the area. A condition is required for the weatherboarding to be stained black to ensure the building reflects the character and appearance of the rural area.

Conclusion

16. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

Andrew Steen

INSPECTOR

Schedule of 8 Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PE/13/145.01, PE/13/145.02, PE/13/145.03, PE/13/145.04.
- 2) Unless within three months of the date of this decision details of materials for the proposed roof, a scheme for the hard and soft landscaping and full details of areas for loading, off-loading and parking spaces is submitted in writing to the local planning authority for approval,

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and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as these details and scheme are approved and implemented.

If no details or scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Development shall be carried out in accordance with the approved details and scheme.

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.

- 3) Hard and soft landscape works submitted in accordance with the above condition shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 4) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 5) Once approved the loading, off-loading and parking spaces shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.
- 6) The use shall not take place other than between the hours of: -
0700-1900 Mondays - Fridays
0700-1200 Saturdays
and shall not take place at any time on Sundays or Bank Holidays.
- 7) No external storage of parts, equipment, raw materials or products shall take place within the site.
- 8) The weatherboarding to the development hereby permitted shall be featheredged timber weatherboarding and shall be stained black.