



Appeal Decision

Site visit made on 5 January 2005

by Andrew D Kirby RD* MA MSc FRTP IFRSA

an Inspector appointed by the First Secretary of State



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Date

13 JAN 2005

Appeal A: APP/U2235/C/04/1154605

Land at former pumping station, Dean Street, East Farleigh, Maidstone

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms T Wilson against an enforcement notice issued by Maidstone Borough Council.
- The Council's reference is ENF/970.
- The notice was issued on 24 June 2004.
- The breach of planning control as alleged in the notice is the creation of 2 no. window openings in the western front elevation of the building and the erection of fencing on the south and west boundaries of the site adjacent to the highway, as indicated on the notice plan.
- The requirements of the notice are to remove the glazing and frames from the window openings, brick up those openings and return the elevation to its former appearance; to demolish and remove the fencing; and to remove all resultant rubble and material arising from compliance with the above.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B: APP/U2235/A/04/1162857

Land at former pumping station, Dean Street, East Farleigh, Maidstone

- 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 Ms T Wilson against the decision of Maidstone Borough Council.
- The application Ref MA/04/1384, dated 12 July 2004, was refused by notice dated 25 August 2004.
- The development proposed is the change of use of and alterations to the former pumping station to form one dwelling.

Summary of Decision: The appeal is dismissed.

The s78 appeal

1. The application proposes a pedestrian access to the site and no vehicular access. An appeal was dismissed for use of the building as a holiday cottage on the grounds of an unacceptable vehicular access. The site is so small that no alternative and safe vehicular access can be provided. No safe on-site provision can be made for waiting or calling vehicles. This is one of the council's objections; the other is that the building does not justify conversion to a dwelling and would be detrimental to its rural location.
2. Dean Street is a busy rural road and although the junction with Workhouse Lane is wide parking on the highway in the immediate vicinity of the site carries with it a hazard for those parking and other road users. There is no parking off the carriageway. I agree with the

council that this is not a suitable location for a dwelling without some form of safe parking provision clear of the carriageway. While there is a bus stop at the junction the service is an infrequent one. The roads leading to facilities in Coxheath do not have footways and, as I observed, are not a comfortable pedestrian experience because of narrowness, bends and fast moving traffic. I appreciate that the council's parking standards are maximum ones and that in planning policy terms it is desirable to encourage less car dependence but the situation has to be right and locations need to be sustainable. This is not one of them.

3. I accept that the appellant cycles and does not need off-street parking but that cannot be guaranteed for the future. In any event a dwelling use will attract visitors and deliveries and parking at the junction is hazardous. There is a lay-by in Workhouse Lane but it is no means clear whether that is on private or public land. In any event it is too far distant to be of practical value to visitors to the appeal site who, unless they were very familiar with the location and intending to stay for some time, would not use it. Control by parking regulations is not a good solution since they are likely to be difficult to enforce in such an out of the way location; far better not to create the problem in the first place.
4. I fundamentally disagree with the appellant's claim that the proposal would "upgrade and enhance the character of the building itself and this prominent corner site". Quite the reverse. The appeal building is a very small former Southern Water Authority pumping station typical of many built to serve the infrastructure in rural areas. It had an unassuming, recessive and utilitarian character with small high level windows in the end walls and a central doorway. What is proposed is the retention of the unlawful domestic windows and the construction of a porch as well as a domestic curtilage around the building. All these features would draw attention to the building, not least the porch which, although small in itself, would appear as a relatively large and somewhat incongruous addition to such a small building. As a general principle the appropriate re-use of rural buildings is to be encouraged, and as my colleague commented, can have the benefit of a positive use rather than dereliction. However, that is not to say that any use would be acceptable or preferable to dereliction or the removal of the building. In this case the building is particularly prominent from Dean Street to the south and is seen against a rural background, even though there is housing to the south and east. A change in appearance from a small rural utility building to a dwelling with the inevitable domestic paraphernalia would have a marked and adverse impact in views of this rural area on the edge of Coxheath.
5. The development plan requires all development in rural areas to be well designed and appropriate to its rural surroundings; in particular the re-use of a rural building which is in keeping with its surroundings has to be acceptable on environment, traffic and other planning grounds. The re-use of buildings for housing in the countryside is, in the local plan, restricted to buildings which are worthy of retention for their contribution to the character of the countryside. While PPS7 does not have a specific requirement that buildings to be converted should have intrinsic merit, it does set out criteria that council's should take into account in drawing up their policies for re-use of buildings in rural areas. These include the impact on the countryside; the suitability of different types of buildings, and of different scales, for re-use; and the desirability of preserving buildings which contribute to local character.
6. I conclude that residential use, despite a general need to provide housing, particularly in small units, is wholly inappropriate here for the reasons I have given. It conflicts with the development plan and there are no material considerations to justify planning permission.

The s174 appeal on ground (a)

7. This concerns the retention of the fence and windows. The fence has been removed and the appellant says there is no need to consider it further. The building has no lawful use apart from its last use for which it is no longer required, the statutory undertaker having removed equipment and sold the site. Without a lawful use there is no justification for the insertion of domestic windows in the front façade. Indeed it seems likely that they were inserted to enable the residential use that I have dealt with above. I have described the recessive and unobtrusive character of this small utility building, typical of many found in rural areas. The two windows, which take up a relatively large proportion of the small façade, mark it out as something different and draw attention to it. They have changed its appearance such that it has become more obtrusive in its rural setting. This is unacceptable unless justified by the use of the building and since there is no lawful use, or suggestion of a realistic proposed use that would justify them, it would be inappropriate to grant planning permission because of the harm caused. The "rural cottage style appearance" that the appellant claims the windows beneficially provide is very much at odds with the setting and character of the original building, with or without the planting of ornamental and fruit trees. The appeal fails on ground (a).

The s174 appeal on ground (f)

8. The enforcement notice requirements seek the restoration of the land to its condition before the breach took place, not the lesser requirement of remedying any injury to amenity caused by the breach. In those circumstances it is difficult to understand how the insertion of plain unornamented glazing would achieve that. No lesser steps would undo the harm I have identified. The appeal fails on ground (f).

Conclusions

9. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should not succeed.

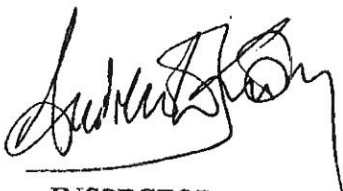
Formal Decisions

Appeal A: APP/U2235/C/04/1154605

10. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/U2235/A/04/1162857

11. I dismiss the appeal.



INSPECTOR