

**21/505360**

**Appeal Decision**

Attached is the appeal decision referred to in the Committee Report for background information.

As outlined in the report, the proposals have overcome the dismissed appeal (that was for a new dwelling) as a tourism use is now proposed, which can be allowed under policy DM31 of the Local Plan and policy TOU1 of the Lenham Neighbourhood Plan.

The Planning Inspector did not consider any harm would be caused to the character and appearance of the AONB or countryside from the conversion works or from the garden and parking area as stated at paragraph 13 of the decision.



## Appeal Decision

Site visit made on 8 June 2021

**by David Smith BA(Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> June 2021**

---

### **Appeal Ref: APP/U2235/W/20/3263046**

### **The Old Cow Shed, West Street, Lenham, ME17 2EP**

- 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 Robert Boyd-Howell against the decision of Maidstone Borough Council.
  - The application Ref 20/501546/FULL, dated 1 April 2020, was refused by notice dated 20 May 2020.
  - The development proposed is change of use of former agricultural building to a residential dwelling.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. Whether the existing building is suitable for residential conversion having regard to relevant development plan policies and the effect of the proposal on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB).

### **Reasons**

*Whether the existing building is suitable for residential conversion*

3. The appeal site comprises an agricultural building believed to have been built after 1960 and the land immediately surrounding it. It is positioned high up within the Kent Downs AONB in an area of undulating terrain with rolling fields and blocks of woodland. West Street is a narrow country lane and there is limited sporadic built development in the vicinity.
4. Policy DM31 of the Maidstone Borough Local Plan of 2017 generally allows for the conversion of rural buildings. However, their re-use and adaptation for residential purposes is more strictly controlled. In particular, such proposals will not be permitted unless every reasonable attempt has been made to secure a suitable business re-use of the building and if residential conversion is the only means of providing a suitable re-use of buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape.
5. Two schemes to use this redundant farm building for light industrial purposes have been unsuccessful in the past. The nature of the roads serving the site mean that the traffic movements associated with a business use would be problematic. Furthermore, the location of the building does not obviously lend itself to business activities which would also be unlikely to promote sustainable transport. Whilst such alternatives have not been explored recently it would be

unreasonable to insist on a formal attempt to do so when the outcome is almost certainly doomed to failure.

6. The building is typical of many farm buildings dating from around the 1960s with brickwork walls and a cement fibre sheet roof. Paragraph 8.4 of the Local Plan mentions oast houses as an example of the type of building that exemplifies the historical development of agriculture in Kent. However, it also notes that the quality and condition of rural buildings varies widely and the policy provisions are not limited to oast houses. Nevertheless, the buildings that would fulfil criterion ii. of Part 3 of the policy are those that are either designated or non-designated heritage assets. It follows that "other buildings", whilst not of the same calibre, should possess some identifiable attributes.
7. Of the two circumstances under which "other buildings" can meet the terms of the policy it is implicit that such buildings should contribute to landscape character in a positive way. Otherwise all rural buildings would be included. The appeal building is perched on a low rise and is particularly visible from the north. Its appearance is low key but functional. The design and materials of the cow shed mean that it adds nothing to the attractive pastoral scene in West Street. Consequently it does not contribute to landscape character.
8. If taken literally any structure erected within the rural parts of the Borough could be taken to be part of the historical development of the Kentish landscape. However, the policy is deliberately selective in terms of the buildings where residential conversion is permissible. This building might say something about farming practice and ambition at the time it was built but that would be true of any agricultural building. For this policy clause to have any meaning, buildings that fall within it should show in some specific way how they form part of the evolution of the Kentish landscape. An ordinary and ubiquitous 1960s brick shed does not fit into that category.
9. Consequently the proposal would not accord with those criteria of Policy DM31. Furthermore, there is an expectation that residential conversion is the "only means" of providing a suitable re-use. Whilst business use has been discounted no consideration appears to have been given to a tourism use as referred to by the Council.
10. As a result the existing building is not suitable for residential conversion. The proposed development would fall foul of the criteria within Local Plan Policy DM31 and would so undermine the approach in Maidstone of restricting such development in the countryside.

#### *Character and appearance of the Kent Downs AONB*

11. Policy SP17 of the Local Plan affirms the Framework in that great weight should be given to the conservation and enhancement of the AONB. This has the highest status of protection in relation to landscape and scenic beauty. Policy DM30 sets design principles in the countryside and Policy DM31 also expects all rural conversions to be in keeping with the landscape and building character in terms of materials used, design and form.
12. As a result of the proposal the building would have a more domestic appearance with additional openings, rooflights, flue and solar panels. However, the main external materials of boarding with a slate roof would retain a rural vernacular such that the building would fit comfortably into its setting.

Parked cars and other domestic trappings would be visible but if the garden were contained to the southern side of the building then the impact would be insignificant within the wider AONB. This is particularly as there is already housing nearby so that the visual manifestations of the proposal would not be wholly inimical to the qualities of the AONB. Furthermore, the floor plan shows that there is scope to create an ecological buffer zone on the northern and western sides which would assimilate the building into its surroundings.

13. Overall, therefore, whilst giving great weight to its conservation and enhancement, the proposal would not harm the character and appearance of the Kent Downs AONB. There would be no conflict with the policies referred to above that seek to protect the AONB and the countryside generally.

### **Other Considerations**

14. Paragraph 79 of the Framework seeks to avoid the development of isolated homes in the countryside unless, amongst other things, it would re-use redundant or disused buildings and enhance their immediate setting. Although the proposed development would be within these parameters national policy does not state that permission must be granted in those circumstances. In Maidstone a more stringent approach has been taken to the conversion of rural buildings as embodied in the Local Plan. This was examined in the light of the 2012 Framework which contained similar wording. Therefore national policy does not justify a departure from the provisions of the development plan.
15. Cases at Highbourne and Little Pivington Farm are highlighted where the Council has permitted replacement buildings in the countryside for residential use. However, those applications were primarily considered under Policies DM5 and DM32 rather than Policy DM31. Therefore they are not so similar to the proposal at The Cow Shed that the policy conflict identified should be set aside.
16. The appellant indicates that the proposal is likely to have a fall-back position due to its compliance with Class R of the General Permitted Development Order. This allows for a change of use for agricultural buildings to a flexible commercial use. It is maintained that this would give the site the status of previously developed land and so allow Policy DM5 to be applied which is concerned with development on brownfield land.
17. This process is described as "more complex and arduous" and so it is a moot point as to whether it would be embarked upon. The Council's position about the acceptability of a replacement dwelling in that scenario is also unknown. Furthermore, the advice received by the appellant is that this former livestock building is extremely unlikely to provide a commercially sound proposal. Such a route to obtaining permission for a dwelling on the site may therefore be technically feasible but the realistic prospects of this occurring appear low given that a business use has already been discounted. As a consequence this possibility does not outweigh the objection to the proposal.
18. Several elements of the works proposed would comply with the Kent Downs AONB Management Plan. Indeed, some of them would be beneficial. But when taken with the alterations to the building the overall effect would be neutral. Because of this the proposal would not enhance the AONB to the extent that the policy objection should be overridden. Furthermore, the existing building is not such an eyesore or in such a dilapidated state that there is a case for accepting its conversion purely to bring about visual improvements.

## **Conclusion**

19. Whilst no harm would be caused to the character and appearance of the Kent Downs AONB the existing building does not meet the criteria for residential conversions in Policy DM31. The proposed development would not accord with the development plan and there are no other considerations to outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

*David Smith*

INSPECTOR