

Planning Statement for Re-application
of DM/22/1628

Reason 1 for refusal

The Council did not consider that the need for an artist's studio in this countryside location had been sufficiently justified or demonstrated.

Applicant Response

There is a thriving creative community in the areas surrounding Forest Row. Local Schools such as Michael Hall actively encourage creativity as well as places like The New School of Art further South in East Sussex. The Ashdown forest is a very good location for visiting artists from other parts of the country as well, providing inspirational walks and wonderful views.

A representative of Painters Online expressed the following when approached over the idea :

'Well that's a definite yes, and twice a year, we dedicate a theme to the March and November issues of The Artist and Leisure Painter, for Art Courses & Holidays. In between that, we have a busy classified section that reaches out and engages with our audience who are always looking for new and different locations to paint and relax.'

The ambition of the proposal is to provide a very affordable private customised place for artists of many different crafts to be able to focus a dedicated amount of time on their project.

The provision of an Artists Studio/Workshop in the locality will further encourage creative activity, which has beneficial social effects.

Within this location there is not an excess of this type of facility that could provide the privacy and customised setting to focus on a craft.

A representative of the New School of Art in Lewes expressed the following when I wrote to her about the concept :

'Yes I think this is a fabulous project and would defiantly be something artists would be interested in. We as a school hire studio spaces for our courses ...'

I would like to commit to these potential customers but cannot proceed without the council allowing the use of this existing building as an Artists Studio.

Further support and correspondence can be provided confidentially.

Reason 1 continued

The council considered that the site was not a previously developed site and would need a private car and is therefore in an unsustainable location.

Applicant response

Previously developed site

The following is taken from an article about what constitutes a previously developed site:

What is previously developed land?

The NPPF defines previously developed land as:

*“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; **land in built-up areas such as private residential gardens, parks, recreation grounds and allotments**; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”*

What has happened?

In *Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors* [2017] EWCA Civ 141 (14 March 2017) a Court of Appeal judge has succinctly considered the words in bold above. The case involved development in a private residential garden in rural green belt.

The Council argued that all private residential gardens are excluded from the definition of previously developed land, whether or not they are in a built-up area. Any other interpretation, so it is said, would give rise to conflicting policies within the NPPF.

The judge strongly disagreed: *“As a matter of ordinary English I cannot see that any other meaning can be given to this sentence. “Land in built-up areas” cannot mean land **not** in built-up areas”.*

He held that the development was in the curtilage of land that was occupied by a permanent structure (a residential garden) and as the area was rural it should be classed as previously developed land.

The appeal by the Council was dismissed.

By this notion alone the site, which has been used as a residential garden, can be considered a previously developed site.

There is a substantial structure on the land in the form of Apple Barn as well as another timber garden studio, both of which were built to be permanent structures on the land. According to

planning records, prior to these buildings, the site had three smaller buildings on it, which had been there for several years.

Further support for the notion is that the site has been granted planning permission for a garage/workshop three times by the council over the last ten years, illustrating that they consider the site suitable for development, albeit with certain conditions of use, in essence the principle of development has been broached and been shown favour by the council.

History of Development

For reference the following information was derived from planning history documents :

The timber frame building in question has been substantially present on the site since May 2018 and weather resistant and functional not long after that.

The building that stands there now was started under DM/15/1151 when the previous owner fulfilled the pre-conditions DM/16/2679 and began the construction.

During the construction an alteration to the design was needed to accommodate the conditions of the site.

This resulted in a semi basement area being incorporated into the building to accommodate an environmentally friendly foundation system.

Of note is that the foot print of the building remained the same. As did the overall height of the building above ground level.

The building extended downwards only.

A further structural alteration resulted in a different internal floor height of the ground floor which meant the position of the entrance would need to be different from the approved designs. This was on the North Elevation and would have had very little visual effect.

The council considered these changes to require planning permission rather than a non material amendment and retrospective permission DM18/5027 was granted for the building with certain conditions relating to use.

Due to unforeseen circumstances, it is clear that the project has been halted in its tracks, before being fully completed and before restorative landscaping.

As a result the situation has become complicated in terms of planning.

For instance, the fact that the conditions of DM18/5027 including those of DM/19/1057, could not be met, does not automatically invalidate the entire development.

Notably only the lack of fulfilling pre-conditions can invalidate a development.

These are not pre-conditions as the permission is retrospective.

And therefore it could be considered that retrospective permission DM18/5027 has been satisfactorily commenced and therefore has not lapsed and is still valid albeit with some conditions that are unable to be met and therefore need revising.

The council was informed by the applicant that these conditions were not possible to be met, prior to the date of the permission lapsing.

A further perspective is that Retrospective Permission, by its nature, means that the development has successfully commenced and this in turn renders the site 'previously developed'.

With the above factors in mind the site can be considered a previously developed site, certainly within physical terms and also within planning terms as described above, and with this in mind the proposal is making use of a sustainable location as it is using an existing building, in need of a use on a previously developed site.

Vehicle use

A vehicle may likely be used to reach the site.

As a mitigation, once the artist is at the site, they have walking options to the Ashdown Forest and to a Farm shop nearby, reducing the need for extra trips to have a walking break or buy some sustenance.

The hiring arrangement would be set up for one session per day as a low cost way for an artist to gain some valuable focused time. This affordable productive time will hopefully be more inclusive to artists, young and old who could not usually afford such a facility.

This level of activity would most likely result in one trip in and one out.

This would not be an increase from what the current arrangement allows for or what previous use has generated.

Given that *any* type of use of the site would result in a similar vehicular usage, if not more, the fact that a vehicle may likely be used in the proposals' use could not be considered to weigh against it in terms of its sustainability.

In the proposals favour, it does have the added mitigation of having two resources within walking distance, i.e. public footpath into Ashdown forest and the Farm shop facility.

Further mitigation would be in the form of an electric vehicular charging point installed. This would be sustainably compatible with the solar power system as all excess energy, not used by the studio, can be automatically accumulated in the in the storage bank for the charger. Please see attached Sustainability Statement.

As mentioned it does not follow that everyone using the studio will have an electric vehicle but the facility will be beneficial for those who do.

Sustainability of the location

Given the comfortably detached nature of the site, having a private right of way and being positioned a good distance from the surrounding properties, it seems an inevitability that the site would and will, and indeed has been used independently to varying degrees.

Given that the development has physically taken place and that the building has already been declared acceptable in size, design and location by the council, the re-use of the building and site for this low impact, socially beneficial purpose, is a sustainable outcome.

Conclusion

With all of the above in mind, it can be considered that the development would represent sustainable rural development and support the economic and social well-being of the AONB and therefore not be in conflict with policies DP1, DP12, DP16 and DP21 of the Mid Sussex District Plan and paragraph 85 of the NPPF.

Reason 2 for the refusal

No foul sewage and drainage report.

Applicant Response

Please see attached Foul Sewage and Drainage Report.

Reason 3 for refusal

No sustainability statement.

Applicant Response

Please see attached Sustainability Statement

Other issues raised

Silent Energy

A modest amount of power will be required for the amenities and functions of the studio. These requirements will be met by a discrete yet highly efficient solar array located upon the roof of the garden studio, also located on the site, providing silent renewable energy without calling upon the grid. As mentioned the excess energy would be automatically fed into the car charging facility in a sustainable system.

A concern over not being light enough for a studio.

The property may have shrubbery and trees around it but the roof lights as well as the two south facing windows would let plenty of light in for the upper studio. The lower studio would be for tasks that require more controlled lighting or even low lighting such as editing.

Conclusion

If the proposed design scheme were carried out it would provide a community facility in an environmentally friendly sustainable building that has already been declared acceptable in size, design and location by the council. As there is a demonstrable need for such a facility, I ask that the council please grant permission for the proposed use.

Please request if further information is required.

Notes

The question of which Certificate of Ownership to sign has arisen on more than one occasion with this property and varying opinions have resulted in a grey area.

Cert A was signed in this instance for the following reason :

Although the access lane is not owned by the applicant, it is not relevant to the application in planning terms, as the use of the lane will not vary from any historical or current uses with this application, therefore it is not a relevant part of the development site.