
Appeal Decision

Site visit made on 4 April 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/M2270/W/16/3165715

Land at Grovehurst Lane, Horsmonden TN12 8BQ

- 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 S Morgan against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/06001/FULL, dated 28 July 2016, was refused by notice dated 27 October 2016.
 - The development proposed is a recreational fishery for use by a syndicate with a maximum membership of 40 to 50 people, including the proposed enlargement of the existing top (north-west) fishing lake, retention of the use of the existing lower (east) lake as a fishing lake and its expansion with islands, associated landscaping including a wildlife pond, closing off the existing field gate off Grovehurst Lane and new gated opening to the south leading to a new parking area comprising 18 spaces, and a new fishery hut in replacement of the existing timber outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that a number of works have taken place at the site to clear the existing lakes that have resulted in their extension. A certificate of lawfulness (reference 16/501264/LDCEX) confirmed the lawfulness of the top lake for a limited amount of fishing and both lakes are currently in use for fishing. I was able to view the lakes when I visited, including the existing extensions, and have taken that into account in coming to my decision.

Main Issues

3. The main issues are:
 - the effect of the proposed enlargement of the lakes and associated landscaping on the landscape character and appearance of the countryside and adjacent rural lane;
 - whether the proposed development would affect ecology and biodiversity in the area; and
 - the effect of the proposed development on best and most versatile agricultural land.
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Reasons

Landscape character and appearance

4. Grovehurst Lane is a narrow rural lane that runs along the side of a valley, with development reflecting the rural landscape of the area comprising predominantly open fields and orchards. Adjacent to the road to the north of the appeal site is a large lake surrounded by mature trees with parking bays adjacent to the road and former farm buildings opposite. Between that and the site is a public footpath from the road to the top of the hill, with long range views over the site and down the valley from that footpath and the lane outside the site.
5. The site itself is largely open grassland, with a lower lake close to the road and the top lake that appears to result from historic quarrying as it is dug into the hillside, such that it is enclosed by steep slopes to the rear when viewed from the road. The steep slopes around that top lake and above contain coppiced woodland and other trees, which form a wooded backdrop to that lake. However, the open nature of the majority of the site means that it is very visible, particularly from the adjacent public footpath and from the road, over and through gaps in the hedge.
6. The proposal would result in the extension of both lakes with significant engineering works to extend the top lake into the slope of the land and the lower lake increasing in its level and over the lower part of the site, with a very substantial embankment required to enclose and retain the proposed lake. The works are likely to be visible from a distance down the valley, as well as closer range views particularly from the rural lane and footpath adjacent. These works to increase the size of the lakes, especially the lower lake, would have a considerable impact on the landscape character of the site given the amount of excavation and re-forming of the landscape.
7. It is proposed to carry out some landscaping of the site, particularly around the lower lake. Although once mature this would go some way to softening the development within the landscape and restricting views of that lake from the lane and public footpath, it would not overcome the effect of the engineering works on the landscape character and appearance of the countryside.
8. The proposed wildlife pond would be located in the corner of the site where there are currently spoil heaps, away from the two lakes and would be surrounded by shrub and tree planting. Given its location and limited engineering works required to create it, it would not have a material effect on the character and appearance of the surrounding landscape.
9. A new access and car park would be formed adjacent to the existing stable building on the site, with a fishermen's hut that would replace the stables. The parking area would be formed of a porous paving grid that would be grass seeded such that it would have a limited effect on the landscape. The existing stables would be replaced by a simple building with a flat green roof that would be internally lit when in use at night, but its discrete location, limited number of windows and careful management suggested by the appellant would minimise any effect on the landscape.
10. The overhead electric cables are proposed to be moved underground, which would have a positive benefit to the landscape character and appearance of the

area, but this would not be sufficient to outweigh the harm arising from the engineering works proposed.

11. Given the extent of the engineering works proposed, I conclude that the enlargement of the lakes and associated landscaping would harm the landscape character and appearance of the countryside and adjacent rural lane. As a result, the proposed development would be contrary to Policies LBD1, EN1 and EN25 of the Tunbridge Wells Borough Local Plan (LP), Core Policies 4, 5 and 14 of the Tunbridge Wells Borough Core Strategy (CS) and the National Planning Policy Framework (the Framework) that seek high quality design that maintains the landscape character and quality of the countryside and manages, conserves and enhances the landscape as a whole, including the character of rural lanes.

Ecology and biodiversity

12. An ecological survey of the site has been provided along with further comment on the suitability of the site to provide habitat for protected species. The lakes on the site provide limited potential for great crested newts, although they are known to be present in other ponds in the vicinity. There is limited potential at present for the site to provide habitat for great crested newts in the form of foraging, cover and refuge, but it is proposed to provide enhancement to that habitat, including creation of a pond on the site. Consequently, the development would have a low impact on great crested newts, with mitigation and enhancement measures proposed.
13. No information is presented regarding surveys of dormice on the site, although there is known dormice activity in the vicinity of the site. Closing the existing access with new hedgerow would, to a large extent, replace any loss of habitat in the position of the proposed new access and additional planting elsewhere on the site may provide new habitat for any dormice present. I accept that a survey would have assisted in understanding whether there are dormice present on the site, but the appellant's ecologist has confirmed that the development would result in an enhancement to the provision of habitat for dormice on site.
14. I understand that there may be bats present on the site, although there is only one tree that is suitable for roosting bats located behind the top lake. This would not be affected by the proposed development and, consequently, the effect of the development on bat habitat would be acceptable.
15. For these reasons, I conclude that the proposed development would not adversely affect ecology and biodiversity in the area. As such, the proposed development would comply with Policies LBD1 and EN1 of the LP, Core Policy 4 of the CS and the Framework that seek to protect and enhance biodiversity.

Agricultural land

16. The Council have confirmed that the site is located in an area suggested to be grade 3 agricultural land, but it is not clear from the evidence presented whether it would be considered grade 3a (best and most versatile) or 3b. The Council's agricultural advisor suggests that the area is generally poorly drained, clayey soils so it is likely that the land is not best and most versatile agricultural land.
17. The appellant has confirmed that the specific characteristics of the site mean that the land is not suited to modern agricultural methods, especially given the

narrow access roads, the topography and soil type prone to water logging, and how land in the vicinity of the site is used. In addition, the site is too small to be viable on its own, although no evidence is provided to demonstrate that it could not be incorporated into a larger agricultural unit. It is suggested that agricultural use could result in noise and smell to neighbouring occupiers and affect highway safety.

18. Although the grade of agricultural land has not been definitively established, on balance I conclude that the proposed development would not result in significant loss of best and most versatile agricultural land such that it would not conflict with the Framework that seeks to direct significant development proposals to areas of poorer quality land in preference to that of a higher quality.

Other matters

19. I note that the appellant has considerable experience in running a fishery, that the number of anglers who would be able to use the site would be limited and that there may be additional ecological benefits to the development, along with additional planting. Provision of this recreational facility would provide a social benefit and I understand that there is some support for the development from neighbouring occupiers. Anglers would support local shops and employment would be provided in order to manage and maintain the facility, which would provide economic benefits from the proposal. However, these matters would not outweigh the environmental harm to the landscape character and appearance of the countryside and adjacent rural lane that I have identified.

Conclusion

20. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR