
Appeal Decision

Site visit made on 20 November 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 28th November 2017

Appeal Ref: APP/U2235/W/17/3181355

Maidstone Auction Market, Detling Aerodrome, Aerodrome Approach, Service Road, Detling ME14 3HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Wilsons Auctions against the decision of Maidstone Borough Council.
 - The application Ref 16/508427/FULL, dated 12 December 2016, was refused by notice dated 13 February 2017.
 - The application sought planning permission for the erection of 2.4m high security fencing to the boundary to replace existing, without complying with a condition attached to planning permission Ref 15/508164/FULL, dated 15 December 2015.
 - The condition in dispute is No 2 which states that: Following erection of the fencing hereby approved, a hawthorn hedgerow shall be planted in the first available planting season in the position shown on drawing no: LFM/03 rev B in accordance with the details set out in e-mail received on 26th November 2015. The hawthorn hedgerow shall be maintained for a period of 5 years and any plants becoming dead, dying or diseased in this period shall be replaced by one in the same location of the same size and species.
 - The reason given for the condition is: in the interests of visual amenity.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2.4m high security fencing to the boundary to replace existing at Maidstone Auction Market, Detling Aerodrome, Aerodrome Approach, Service Road, Detling ME14 3HU in accordance with the application Ref 16/508427/FULL dated 12 December 2016 without complying with condition No 2 previously imposed on the planning permission Ref 15/508164/FULL, dated 15 December 2015, and subject to the conditions set out below:
 - 1) The fencing hereby approved shall be finished in powder coating coloured green ref: RAL 6005 as shown on the submitted NKFENCING brochure.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan being no: LFM/03 rev B.

Preliminary Matter

2. Since it determined the application the subject of this appeal, the Council has adopted the Maidstone Borough Local Plan 2017 (LP), which supersedes the policies of the Local Plan 2000 to which it referred. As both the appellant and
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the Council referred in their evidence to the 2017 Local Plan at its pre-adoption stage, and as the adopted versions of the policies are materially similar to the pre-adoption versions, no party has been prejudiced by this change in policy circumstance.

Background and Main Issues

3. Wilsons Auctions operates on a large site in an industrial estate in what was once Detling Aerodrome. Surrounded by agricultural land, the estate lies in the Kent Downs Area of Outstanding Natural Beauty (AONB). Planning permission was granted to replace a 1.2m high post-and-wire stock fence which bordered the estate service road with a 2.4m high green, steel, mesh fence, which appears to have been implemented. A condition of the permission requires that where the fence borders the service road, and in order to reduce its visual impact beyond the site, that a hedge be planted alongside it. The appellant seeks the removal of this condition.
4. In light of the above, the main issue is whether condition No 2 is necessary and reasonable to protect the landscape character surrounding the site and the scenic beauty of its wider setting.

Reasons

5. The area beyond the industrial estate is distinctly rural in character. Indeed, a field of crops grows on the opposite side of the service road from the fence, and the border between the site and the surrounding field is planted with a belt of trees. However, the landscape character of the immediate area around the exposed fence is dominated by the buildings and enclosures of the industrial estate and the large lorries passing along its service road. Behind the fence, the large area of car-park in front of the auction buildings makes them prominent features of the landscape.
6. The surrounding agricultural fields, with their low post and rail fences, have a bearing on the edge of the appeal site where the fence stands. However, in terms of the character of the area, the commercial appearance of the auction site has a greater bearing. In its context, the fence does not appear out of place. Compared to the pointed steel palisade fences in a galvanised finish around neighbouring sites alongside the service road, the open mesh texture and green finish of the erected fence strikes a fair compromise between the rural character on the opposite side of the service road and the commercial character on the same side.
7. I appreciate the effort of the Council seeking to soften the appearance of the fence. However, it stands within the industrial estate, on the opposite side of the service road from the field. I note that LP policy DM 1 requires development to respond positively to the local, natural character of the area, and to give attention to adding vegetation around site boundaries which reflects and respects the local and natural character of the area. However, I find this boundary has greater affinity with the buildings, enclosures and roads within the industrial estate than the more rural character of the landscape beyond the estate.
8. Moreover, the screening of a commercial site within an industrial estate with a feature more commonly enclosing agricultural fields, would risk undermining the legibility of the landscape features of the wider area. Because of its

location within the estate and its open texture, the visual impact of the fence alongside the service road would not harm the landscape character or scenic beauty of the AONB.

9. I therefore conclude that condition No 2 is unnecessary and its removal would not harm the landscape character surrounding the site and the scenic beauty of its wider setting. There would be no conflict with LP policy DM1, nor with policy SP17 which requires proposals not to have an adverse impact on the setting of the AONB, which has the highest status of protection in relation to landscape and scenic beauty, to the conservation of which the National Planning Policy Framework requires that great weight be given.

Conclusion

10. For the reasons given above I conclude that the appeal should succeed. In accordance with Section 73(2)(a) of the Act, I have granted a new planning permission without the disputed condition No 2, and, as the development has been implemented, without the statutory time condition.
11. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed them as they remain relevant. In the event that they have in fact been discharged, that is a matter which can be addressed by the parties.

Patrick Whelan

INSPECTOR