



Appeal Decision

Site visit made on 2 July 2019

by Jonathon Parsons MSc BSc DipTP (Cert Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 26 July 2019

Appeal Ref: APP/M2270/W/18/3210068

Fairman's Meadow, Land to the east of Brattles Grange, off Fairman's Lane, Brenchley, Kent TN12 7AP

- 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 & Mrs Clarke against the decision of Tunbridge Wells Borough Council.
 - The application Ref 17/03888/FUL, dated 17 November 2017, was refused by notice dated 28 February 2018.
 - The development proposed is the erection of a new country house and associated gate lodge, landscape and ecological improvements and a new vehicular access off Fairman's Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A Unilateral Undertaking dated 16 May 2019 provides obligations that the gate lodge would not be separated from the country house (main house) and the implementation of a Biodiversity Enhancement and Protected Species Mitigation Strategy 2017, a Wet Woodland Enhancement and Monitoring Strategy (WWEMS) 2018 and a Strategy for Monitoring Riparian Woodland 2018. This will be commented upon within the decision's reasoning.
3. Ecological studies¹ have referred to the woodland on the eastern boundary around a stream as gill/gyhll woodland and the importance of restoring and enhancing this. Following survey work of lower plant species and bryophyte species, the WWEMS confirms that the woodland does not form archetypal gill woodland, albeit it still forms part of the wider Weald gill network. The recent WWEMS describes it as a riparian woodland corridor and the appeal has been determined on this basis.
4. There were a number of new plans, details and updated CGIs (including TLG.356.GA.002 Rev A, TLG.356.GA.003 Rev.A, TLG.356.Sketch.DS.100, TLG.356.Sketch.DS.101, TLG.356.Sketch.SS.001, TLG.356.SS.002, TLG.356.GA.001.Rev B, TLG.356.DS.102 and JPA CG1 from Access Point) accompanying the appeal. As these plans and details provide clarification, they have been considered as part of this appeal.

¹ Philip Samsom Report on site visit undertaken 19 June 2017, Combined Ecology Report October 2017 and Biodiversity Enhancements and Protected Species Mitigation Strategy 2017.

Main Issues

5. The main issues are whether the proposed homes would be (a) isolated and (b) would have a design of exceptional quality, in that they would be truly outstanding or innovative, raise standards of design more generally in the rural area, and would enhance immediate setting and would be sensitive to the defining characteristics of the area.

Reasons

Isolated

6. The appeal site comprises a large area of grassland, a pond, woodland and hedgerows. Fairman's Lane lies to the west and Spout Lane to the south. There is a public footpath off Spout Lane through woodland that runs roughly parallel with the pond. On the other side of the site, there is an existing agricultural vehicle access off Fairman's Lane.
7. The appeal site is located outside any defined Limits to Built Development (LBD) of any settlement under the Tunbridge Wells Borough Core Strategy (CS) 2010 and Tunbridge Wells Borough Local Plan (LP) 2006. Policies seek to focus new residential development within the LBDs. The National Planning Policy Framework (NPPF) states that development of isolated homes should be avoided in the countryside. An exemption is a home with a design of exceptional quality which the justification of this proposal is based upon. For this to apply, the site must be isolated.
8. The appeal site would not be isolated if the site was within a settlement but the NPPF provides no definition of these terms. The *Braintree BC v SSCLG [2018] EWCA Civ 610* judgment states that a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby or public transport within easy reach. However, even after taking this into account, what constitutes isolated will still be a matter of fact and planning judgement.
9. The appeal site is substantial in size. The dwellings along Spout Lane and Fairman's Lane are sited mostly in dispersed groups along road frontages or in isolation, with visible undeveloped areas in between. There is little development beyond the other boundaries of the site. As a result, this pattern of development would give little sense of connection or cohesion, and as a result, the area is considered isolated.

Quality of design

10. The site is characterised by semi-improved grassland, riparian woodland alongside a stream and pond, and ancient woodland to the north-east. In the 1970s, a pond was formed by the damming of a stream with spoil deposited to the west of it. As a result, there is downward slope from the grassland to the pond and woodland, and from west to east/south east, a level change of approximately 15m. The meadow is bounded by hedgerows around its perimeter. Along Spout Lane and Fairman's Lane, there are dwellings of varying designs and origins, which are set within landscaped surroundings. Both adjacent lanes are designated rural lanes.
11. The wider area comprises a broad plateau with intensively-managed, orchard-dominated landscapes at higher elevations and rows of fruit trees on rolling

slopes and ridges (Tunbridge Wells Borough Council (TWBC) Landscape Character Area Assessment SPD 2002 and draft TWBC Landscape Character Assessment SPD 2017). The plateau is broken up at irregular intervals by steeply banked wooded gills and with it, there are dispersed historic settlements of villages, hamlets, farmsteads and dispersed groups of buildings. As such the landscape and scenic beauty is of the highest order and the area is within the High Weald Area of Outstanding Natural Beauty (AONB).

12. As an exemption in isolated locations, the NPPF permits homes of exceptional quality, subject to criteria as set out in the main issue. The country house comprises a series or cluster of contemporary designed pavilions which are generally arranged orthogonally around a slender spine glazed link. The spine links the pavilions above lower accommodation within a rammed earth constructed exterior. The house would be strategically placed between the meadow embedded on the downward slope to the pond with the lower earth exterior exposed within this.
13. The pavilions would be constructed as cross laminated timber structures clad in sweet chestnut, a local sourced material, which would be given a naturally and environmentally friendly coating, that subtly whitens the timber exposing its grain. The rammed earth would be from the subsoil of the site and locally-sourced material from Hermitage Quarry near Maidstone. Within the timber clad exteriors, the pavilions would have recessed glazing within a Corten steel frame, where they face the pond, behind balconies and other external areas. The roof of the pavilions would be landscaped flower meadows and PV panels whilst external amenity areas and steps to the pond would be Ragstone.
14. In line with the country house tradition, there would be a gate lodge (to house a grounds person) which would comprise two single storey elements linked by a car-port. This would be sited adjacent to Fairman's Lane and the proposed access leading to the main dwelling. It would be constructed with similar materials, with earthy brick constructed chimney. The scheme's landscaping and biodiversity proposals are seen as integral to the proposal and the development would be sustainable aiming to be zero-carbon or better.
15. The sweet chestnut cladding would complement the changing colours of the meadow whilst the meadow roofs would provide some visual cohesion with it. The use of rammed earth material in the construction would be ground-breaking. There would be variation in terms of scale, external treatment and projections and as a result, attractive shadowing effects with changing sun positions. Glass would exhibit a changing reflectivity of the landscape. The approach from Fairman's Lane to the dwelling through the meadow to the dwelling would be particularly appealing, with the local timber clad pavilions, with their meadow roofs, not visually apparent until you arrive. The gatehouse would have an unassuming appearance.
16. However, the access approach would be in stark contrast to the extensive exposed elevation of pavilions, glazed corridor and the rammed earth exterior living areas below, which would face the pond. Additionally, there would be hard surfaced amenity areas between the pavilions and to the side. Such bold features would not sit comfortably with the sloping and naturalised nature of the site by reason of their extensive linked and rectilinear shaped forms. Such an approach would be at odds with the Design and Access (DAS) requirement to blend nature and the environment with and into the home through

materials, views and technology. Contrast and contradiction can produce exciting and challenging designs but the NPPF requires dwellings fitting the exception to significantly enhance setting and to be sensitive to the defining characteristics of the local area which this proposal would not do so where it faces the eastern boundary for these reasons.

17. The proposal has been the result of pre-application discussions with the Council, AONB unit, a design panel and other bodies. Nevertheless, the DAS, Planning Statement or Independent Design Appraisal do not demonstrate how the final scheme has taken account of the defining characteristics of the site and the area. The proposal is based on a 'cluster' plan arrangement, but this is weakly referenced by a map of the footprints of surrounding development, mostly dwellings of different ages and origins.
18. The DAS describes the site and surroundings and how it has evolved over time, the embedding of the dwelling within the landscape, together with detailed landscaping and biodiversity proposals to restore what was present originally and enhance it. There are plans, maps and diagrams explaining this but there is no detailed analysis on the wider morphology, context, local materiality and building typologies of the area which is fundamental to defining the local characteristics. Commentary is not distilled down to the site-specific level to provide a rationale for the form, scale and design of the proposal. Although the final scheme has to be considered first and foremost, the inadequacies in the process leading to it confirm my above findings on the design.
19. In landscaping terms, there would be the retention and reinforcement of perimeter planting and hedgerows, decreasing visual access to the interior and increasing vegetation density. Within the site, there would be the planting of trees strategically in clusters and as specimens. In connection with the biodiversity measures, there would be landscaping around the pond and alongside the riparian woodland. The existing hedgerow at the historical entrance at Fairman's Lane would be coppiced and root balls to be translocated to preserve the existing ancient boundary. Existing overhead power lines crossing the site would be removed.
20. However, the area is not significantly degraded or the landscape of a poor quality. Furthermore, some of the additional planting around the pond would serve as mitigation/compensation for the new dwelling when it is viewed from a public footpath. Therefore, the level of enhancement would not be significantly greater than other schemes for development within rural areas.
21. The biodiversity plans have been informed by a leading specialist on gill woodland. The WWMEMS details baseline botanical survey, including lower order plants and bryophyte species, enhancement measures, invasive species removal and monitoring for the riparian woodland. Measures have been designed to preserve/improve the humid micro climate for the characteristic flora of this woodland, including ferns, liverworts and mosses. The pond would be reprofiled to restore the valley character of the riparian woodland, with invasive non-native species removed, and shrub and tree planting will be added along the bank of the pond to improve ecological continuity.
22. Augmenting existing hedgerow and woodland would increase habitat for protected species, including common dormouse. Transitional habitats would be added to the meadow, woodland and hedgerows to improve connectivity between habitats. The meadow would be enhanced into a traditional hay

- meadow supporting a diverse range of wild flowers in collaboration with the Weald Meadow Partnership. Enhancement techniques (seeding and plug planting) will be monitored and scarce neutral grassland species would be introduced. There would be a robust management system to include coppicing, grazing, etc . Green roofs and bat boxes would be provided.
23. The obligation would secure these enhancements and the management and monitoring of them through technology would provide information of value to understanding processes of ecological change and the effects of disturbance in woods, an area of knowledge which requires development for the effective conservation of this resource.
24. However, native planting and eradication of invasive species would be expected of any scheme. The re-profiling of the pond would not restore the stream to its original form prior to the man-made creation of the pond. The enhancement to the meadow with the introduction of scarcer plant species would be a benefit but there is already a meadow established and managed over a long period of time. National policy also encourages biodiversity improvements in and around developments, especially where this can secure measurable net gains.
25. As to sustainable building design, the use of cross laminated timber, sweet chestnut and cork insulation are environmentally sensitive materials with low embodied energy, thermal insulation properties and a long life. The dwelling's glazing would help to maintain excellent daylight levels to reduce lighting requirements, retain heat in winter, achieve passive heat gain in winter and minimize heat gain in the summer. The development would be one of the first houses to use biomimicry in glass to avoid bird strikes.
26. Integrated hybrid solar energy and battery storage systems would provide thermal energy and electricity, and peer to peer energy supply would be incorporated. Ice house thermal storage facilities would be used. Surface water and foul water drainage would take place through permeable surfaces, biological treatment tanks and reed beds. Taken as a whole, such measures would support the potential for the scheme to exceed net zero carbon and be carbon negative and confirm it to be innovative. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability.

Conclusions on design of exceptional quality in an AONB

27. The sustainable building design would be truly innovative/outstanding and would help raise standards of design more generally in rural areas. Some elements of the architecture, including choice of materials, would also be of the highest standard. The intention of the scheme to integrate with landscape and biodiversity is worthwhile. However, the proposal has to be considered as a whole as to whether the design is of exceptional quality. In this regard, the proposal should significantly enhance its immediate setting and should be sensitive to the defining characteristics of the local area. The country house would not do so because of its bold rectilinear configuration facing the pond. Landscaping and biodiversity enhancements would not significantly go beyond the ordinary. Consequently, the country house, along with the gate lodge, are not considered to exceed the very high bar set by the NPPF.
28. The NPPF also requires great weight to be given to conserving and enhancing the landscape and scenic beauty of AONBs which have the highest level of

protection in relation to these issues. The Appellant's Landscape Visual Impact Assessment (LVIA) concludes that effects of the development would be local/limited scale minor adverse on landscape character and have moderate local/limited visual scale effects from the public footpath viewpoints alongside the eastern boundary. There will be additional landscaping and the removal of power lines.

29. By reason of topography and location, the effects would be localised but the LVIA downplays the magnitude of change and the sensitivity of the footpath receptor. Irrespective of the scheme's design merits, a new dwelling in this location, along with the hard surfaced amenity areas, would bring about a marked change from field to domestic dwelling and curtilage. Based on my site visit, there would be a considerable length of footpath alongside the pond from which the country house would be highly visible rather than glimpsed. The screening effect of existing vegetation would be partial and when trees have dropped their leaves, even less so. Existing rooflines are distant, and planting would take considerable time to provide mitigation and compensation.
30. For all these reasons, the landscape character and visual effects would be greater than conveyed in the LVIA. In the absence of the policy justification for the country house, the gatehouse would also result in localised harm to character and appearance. The development would adversely harm the scenic beauty and landscape of the AONB and consequently, the proposal would be contrary to Core Policies CP 4 and CP 14 of the CS and Policies LBD1, EN1 and EN25 of the LP.

Other matters

31. Numerous planning permissions and appeal decisions have been drawn to my attention, including how schemes have been considered in respect of the national policy for country houses. The specific details of each scheme and context have not been provided in full but the commentary provided demonstrates that every proposal is different. For instance, in respect of the dwelling at Lower Street in Doveridge, the scheme comprised a low (single-storey) building where the Inspector considered the lowness of its design helped its integration into its surrounding. The different schemes illustrate that every appeal has to be considered on its particular planning merits.

Conclusion

32. The proposal would conflict with policies of the CS and LP, and the development plan as a whole. There are no material considerations of sufficient weight or importance to outweigh the development plan conflict identified and planning permission should be refused. For the reasons given above and having regard to all other matters raised, including support, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR