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## Appeal Decision

Site visit made on 9 October 2019

**by Rory MacLeod BA MRTPI**

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

**Decision date: 06 November 2019**

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**Appeal Ref: APP/U2235/W/19/3232536**

**Amberlea, South Green Lane, South Green, Sittingbourne, Kent ME9 7RR**

- 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 James Tran against the decision of Maidstone Borough Council.
  - The application Ref 18/505661/FULL, dated 26 October 2018, was refused by notice dated 15 March 2019.
  - The development proposed is demolition of the existing stable building and its replacement with a slightly larger building to be used for classes on sushi making and the Japanese tea ceremony, and to construct a small extension to the existing coach house and to use the building as an artist's studio/workshop.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on
  - (a) the character and appearance of the area including the Kent Downs Area of Outstanding Natural Beauty (AONB),
  - (b) the living conditions of occupiers of nearby dwellings in relation to noise and disturbance,
  - (c) highway safety in relation to likely traffic levels and visibility at the site access and
  - (d) ecological considerations.

### Reasons

#### *Character and appearance*

3. The site is a corner plot fronting South Green Lane with a return frontage including a vehicular access on Southlees Lane. It is open land with trees and shrubs mainly to the boundaries but also includes two buildings. There is a row of dilapidated timber stables in the centre of the site and a small brick building close to the site's southern corner. The appellant states that the site and buildings were once part of South Dean Farm to the east of the site but have since been severed from it. The site is not currently in active use.
4. The site is centrally located within a loose group of buildings known as South Green. There is a church building adjacent to the site's northern boundary, but

the locality is primarily residential in character comprising a mixture of mainly two storey houses, several with large detached garages. There are also several farm and storage buildings in the settlement, often set back from the road. The area is rural in character with vegetative screening to many road frontages, yet most of the buildings are readily visible in the street scene. The surrounding area comprises open grassed areas, farmed fields, patches of woodland and tree belts and narrow lanes set in rolling countryside. The site and surrounding area form part of the Kent Downs AONB.

5. The replacement building would be single storey and designed in the style of a traditional Japanese tea house. The appellant's intention is to hold classes on Tuesdays to Saturdays between 9.00am and 3.30pm for 40 weeks a year with a capacity of 6-8 clients each day served by a maximum of 4 staff. A small extension would be built to the southern side of the brick building to provide a toilet and utility area to facilitate the use of the building as an artist's studio and workshop. The plans indicate provision of 4 parking spaces and an adjacent turning area between this building and the site access.
6. The presence of built structures on the site indicates that it previously had a more active use. From the information available the site would appear to constitute "*previously developed land*" in accordance with the definition in Annex 2 to the National Planning Policy Framework (the Framework). Paragraph 84 of the Framework states "*The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist*". The site is centrally located within South Green.
7. Whilst permission has recently been refused and dismissed on appeal<sup>1</sup> at the site for a large dwelling and carport, the site's use for a business or leisure purpose would in principle be in accordance with the Framework's aims to support a prosperous rural economy. Paragraph 83 of the Framework states that planning decisions should enable "*the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings*" and "*sustainable rural tourism and leisure developments which respect the character of the countryside*". Although this is a remote location, the use of the site for the proposed purposes would be consistent with the Framework subject to the tests of the buildings being well-designed and the proposal respecting the character of the countryside.
8. The proposal is small in scale and would be consistent with Policy SS1 of the Maidstone Borough Local Plan (2017) (MBLP), a strategic policy guiding the location of all development, but which supports small scale employment opportunities at appropriate locations to support the rural economy. The proposal would also potentially align with Policy SP21 of the MBLP that supports the expansion of existing economic development premises in the countryside, including tourism related development, provided the scale and impact of the development is appropriate for its countryside location. Whilst the site would appear not to have been economically active for some time, it is nonetheless previously developed land.
9. The proposed replacement building would be lower than the existing row of stables, which are longer than depicted on the existing plans, and would be in approximately the same place. I am satisfied that it would not be materially

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<sup>1</sup> 16/506157/FULL and APP/U2235/W/17/3173564

larger than existing structure. It would similarly have timber walls and would be topped with a shallow pitched hipped tiled roof. The building would have a balanced and coherent design that would not be unattractive, and which would be an improvement on the appearance of the present dilapidated structure. The building would be comparable in size with domestic garages and outbuildings in the vicinity of the site but lower in profile. It would be less conspicuous in the street scene than most of these as it would be largely screened from public view from most sides by retention of existing boundary screening. Its appearance as a Japanese tea house would be unusual in this rural context but the MBLP's design policies do not expressly rule out alternative cultural expressions but focus particularly on matters including scale, materials, site coverage and character.

10. The Council do not object to the modest extension to the small brick building. It would have a satisfactory appearance and would be relatively inconspicuous from within the site. However, its excavation may affect the roots to a tree forming part of the screen to Southlees Lane. The loss of the tree would undermine the effectiveness of this screen. The 4 parking spaces proposed alongside would likely require the removal of two trees but not the boundary screen to Southlees Lane. A large tree between the proposed turning area and the existing building could be affected by the laying down of a hard surface here and any subsequent enlargement of the area. Whilst the application does not indicate tree removal, the submitted plans do not provide details of existing trees and hedgerows. The County Council's Highways Officer comments that one of the parking spaces would be inaccessible without expansion of the hardstanding area.
11. The site is not close to public transport facilities. Most users of the site are likely travel by car. The narrow lanes in the vicinity of the site afford little opportunity for on street car parking. It is therefore likely that all vehicles associated with staff and clients would need to park on site. Even if some clients are brought to the site by taxi, given the proximity of the access to the road junction, it would be safer for such clients to be set down within the site and for all vehicles to enter and leave the site in forward gear. The appellant envisages the site's facilities being used by children with special needs; if these were to be brought to the site by minibus, a larger hardstanding for parking and turning would be necessary. It may also be necessary to widen the access and clear some boundary vegetation to facilitate turning in and out of the site and to improve visibility from the access.
12. It is likely that the area of hardstanding required for parking and turning of vehicles would be considerably greater than that indicated on the plans. The appellant has invited the use of a planning condition to subsequently approve the extent and form of construction for the hardstanding area. However, given the inadequacies of the indicated layout, the likely material expansion of this area and the uncertainties on the impact of these measures on trees and hedgerows, it is my opinion that this matter should not be left to a condition.
13. Policies DM1 and DM30 of the MBLP require high quality designs for rural areas including the retention and addition of native vegetation appropriate to local landscape character around the site boundaries as a positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area. My findings are that the new building would be well-designed and in keeping with nearby buildings in relation to its scale,

appearance and use of external materials. However, the impact of the proposal as a whole on the countryside location would be harmful if many trees and much of the boundary screening are removed. There remain uncertainties that the proposal would satisfy the concerns raised by these policies.

14. Moreover, the site is within the Kent Downs AONB. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. Whilst the scale and extent of development in this instance is indicated to be limited, (another requirement of Paragraph 172), the site's location within an AONB adds weight to the importance of ensuring that the extent of hardstanding and clearance of vegetation does not detract from the character of the area and appearance of the street scene.

#### *Living conditions*

15. There are scattered dwellings close to the appeal site on the opposite sides of South Green Lane and Southlees Road. The activities associated with the artist studio and classes are unlikely to give rise to levels of noise or disturbance that would be readily perceptible from these dwellings. The Council is concerned about disturbance from vehicles coming to and going from the site, but the maximum number of clients and staff likely to attend the site would still be relatively low with activity restricted to day time hours. Given the separation distances to the nearest dwellings and the low overall traffic volumes likely to be generated, there would not be significant levels of noise or disturbance for the occupiers of these dwellings as a result of the proposal. Moreover, any disturbance would be set against that arising from through traffic in South Green; representations on the proposal refer to tractors and articulated lorries passing through South Green serving local farms and attached warehouses.
16. There would not be conflict with those sections of Policies SP21 and DM1 of the MBLP promoting respect for the amenities of occupiers of neighbouring properties by ensuring that development does not result in, amongst other matters, excessive noise, vibration, air pollution, activity or vehicular movements.

#### *Highway safety*

17. The Council's concerns relate to the absence of additional information to make an assessment on highway safety. The proposal would clearly result in an increase in vehicular activity as the site has been vacant for some time, but the overall volume of traffic generated by the proposal is likely to be low and spread across daytime hours. Furthermore, the access already exists and can continue to be lawfully used. Improvements to visibility from the access and ease of turning into and out of the site could be made through the widening of the opening and cutting back of the hedgerow to either side. However, traffic approaching the site from the west along Southlees Road is likely to be slowed by the bend in the road, the imminence of the junction with South Green Lane and by rising land levels. Traffic turning right from South Green Lane to pass the access would similarly be likely to be travelling at relatively low speeds.
18. Having regard to the site circumstances and anticipated low levels of traffic to be generated, the proposal would comply with Paragraph 84 of the Framework that requires rural economic enterprises to "*not have an unacceptable impact on local roads*". It would also be compatible with Paragraph 109 of the

Framework which states that “*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”. The proposal would also be compatible with those parts of Policies SP21, DM1 and DM30 of the MBLP that require proposals to not result in unacceptable traffic levels on nearby roads and to safely accommodate the vehicular and pedestrian movement generated through the site access.

### *Ecology*

19. The Council’s final reason for refusal of the proposal relates to the lack of evidence to confirm that there would not be significant harm to the ecology of the site. It contends the site contains habitat that could accommodate protected species and notes that no formal survey of the site has been submitted. The appellant claims that ‘professional advisors’ inspected the site and found no evidence of harm to ecological interests, but there is no corroboration of this in the appeal submissions. The appellant asserts that a formal survey should not be necessary as the site is small and not subject to a biodiversity designation in Paragraph 175 of the Framework; however, Paragraph 172 refers to the conservation and enhancement of wildlife considerations in AONBs.
20. At the last appeal at the site, the Inspector did not reach a finding on the need for an ecological survey. Since that time, the Council has adopted the MBLP and Policy DM3 encourages where appropriate provision of an ecological evaluation of development sites to take full account of the biodiversity present, including the potential for the retention and provision of native plant species. As there is uncertainty on the extent of vegetative clearance necessary for operation of the proposal and the appeal is to be dismissed for other reasons, it would be prudent for this matter to be explored further. It has not been demonstrated that the proposal would not be harmful to ecological interests and there would therefore be conflict with Policy DM3.

### *Other matters*

21. South Green Farmhouse to the south of the site on the opposite side of Southlees Lane is a Grade II listed building. I concur with the Council that the separation between this building and the site coupled with retention of boundary screening would ensure that there would be no harmful impact on the setting of the listed building.
22. I have noted the objections received against the proposal from local residents, an elected representative and from the Kent Downs AONB Unit and have examined the issues raised in the analysis in preceding paragraphs.

### **Conclusion**

23. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

*Rory MacLeod*

INSPECTOR