



Appeal Decision

Site visit made on 28 January 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2020

Appeal Ref: APP/H2265/W/19/3238778

1 Oast House Cottages, Pilgrims Way, Aylesford ME20 7DD

- 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 Terry Moore against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/19/00485/FL, dated 26 February 2019, was refused by notice dated 25 June 2019.
 - The development proposed is for barren land, as marked on site, being used as a storage space for scaffolding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area including the Kent Downs Area of Outstanding Natural Beauty (AONB), with respect to planning policy and national policy and;
 - highway safety.
3. The appeal site is accessed via an unmade dog-leg track and is set to one side behind a small copse of trees and hedges adjacent Pilgrims Way. The track leads to planted fields and grassland which slopes up to woodland on one side and down to Oast House Cottages on the other.
4. The development has been completed and retrospective planning is now sought. The structure consists of a metal-framed, open storage facility with a corrugated metal roof. To the side there is a free-standing shipping container, and to the front there is an unmade compound, open storage and waste. The structure has shelving where a wide range of equipment and materials, that appear to be for the purposes of scaffolding, such as metal tubes, planks, ladders and rope lengths, have been stored.

Planning and national policy

5. The main parties agree that the development is located in the countryside. Given the location and characteristics of the surrounding fields I see no reason to disagree. As such, the development must comply with the relevant development plan policy to be permitted. In this case the relevant policy is Policy CP14 of the Tonbridge and Malling Borough Local Development Framework, Core Strategy 2007 (TMBCS) which sets out a number of criteria, which if met will permit development in the countryside.

6. Both parties also agree that the structure is not being used for agricultural purposes as applicable under criteria (c) of Policy CP14. Indeed, from the evidence before me, the Council has identified as part of its enforcement role that the site is being used for activities related to the storage of scaffolding.
7. This is confirmed by the appellant on his appeal form which requests the 'continuation of use of land for the storage of scaffolding materials, and retention of the scaffolding structure.' Further, the appellant in his statement of case says that he intends to continue to allow use of the structure for the storage of scaffolding tubes. As such, the only relevant criteria under Policy CP14 is (d), which states that development in the countryside will be restricted to that 'required for the limited expansion of an existing authorised employment use.'
8. However, although I concur that the appeal site appears to be used for scaffolding storage, the appellant has indicated in his statement of case that the operation associated with the structure is not connected with a business use. Moreover, it will be limited to use by the landowner and other family members. As such, there is no 'existing authorised employment use' associated with the development.
9. Therefore, the development is contrary to Policy CP14 (d) of the TMBCS which says, amongst other things, that development will only be permitted where it is required for the limited expansion of an existing authorised use.
10. For similar reasons the development is in conflict with Paragraph 170 of the National Planning Policy Framework (the Framework) which requires that there is recognition of the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits.

Character and appearance

11. The main parties also agree that the development is in the AONB. As such, the development must conserve and enhance the landscape and scenic beauty of the AONB as required by CP7 of the TMBCS, and Paragraph 172 of the Framework.
12. The development, although relatively lightweight, is a permanent structure near to what appears to be agricultural land in the AONB. I noted at my site visit that while there is a limited view of the development from some vantage points, including some in the ownership of the appellant, the fact remains that the development introduces a visually urban feature within the AONB. As such the industrial style structure, associated paraphernalia and shipping container is not something typically found in the beautiful surroundings of the AONB, which in this particular location includes chalk escarpments and areas of copse and hedging. Therefore, the development is incongruous with the character and appearance of the AONB.
13. I acknowledge that the appellant has maintained and enhanced some existing landscaping near the development. However, with little detail as to how this might be retained and given that the AONB must be afforded the highest level of protection, I am not satisfied that the development conserves or enhances the beauty of the AONB.

14. My opinion is reinforced by the observations of the Kent Downs AONB unit which has stated that 'given the site's current undeveloped nature and rural location, away from any built development, the proposed change of use of this land to storage of scaffolding could be in conflict with the Policies of the AONB Management Plan, in particular Policies SD1, SD2 and SD3 in relation to the need to conserve and enhance the natural beauty of the Kent Downs AONB'. Therefore, I conclude that the development would harm the scenic beauty of the AONB.
15. Therefore, the development is in conflict with Policy CP7 of the TMBCS, and Policies SD1, SD2 and SD3 of the Kent Downs AONB Management Plan 2014, which say amongst other things that development must have regard to local distinctiveness and landscape character and use sympathetic materials and appropriate design.
16. Furthermore, the development is contrary to the requirements of Paragraph 172 of the Framework which requires that the scale and extent of development within the AONB should be limited.

Highway safety

17. The appeal site is located off Pilgrims Way. Pilgrims Way when approached from Rochester Road splits into two-very narrow lanes separated by hedging and trees. The gated access to the site is found shortly after the two lanes re-converge into a two-lane highway. The site entrance is also adjacent a similar gated field access.
18. As such the entrance to the site is located on the highway where vehicles are likely to be changing speed or possibly emerging from the access opposite. Moreover, when emerging from the site the visibility splay is set at an angle that makes safe transition onto the highway difficult. There may well be sufficient space beyond the immediate access for a vehicle to wait off the highway. However, vehicles that are potentially loaded with scaffold poles and other equipment are likely to be slow moving as they access or emerge from the appeal site, and cause danger to the on-coming traffic in both directions.
19. I have limited evidence before me to suggest that vehicle movements associated with the development are comparable with a similar agricultural use. In any case, the vehicles needed for agricultural use are also likely to be slow moving when emerging or accessing a site of this type. Indeed, from the facts on the ground as set out above, and in the absence of any compelling evidence to the contrary, I can only conclude that vehicles associated with the activities of the development would compromise highway safety along this section of Pilgrims Way.
20. Therefore, the development is contrary to Policy SQ8 (2) of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010, which says that development will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

21. The development is also in conflict with Paragraph 109 of the Framework which requires that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR