
Appeal Decision

Site visit made on 2 June 2020

by D.R McCreery MA BA (Hons) MRTPI

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

Decision date: 12 June 2020

Appeal Ref: APP/U2235/W/19/3241982

River Wood, Chegworth Lane, Harrietsham, Maidstone ME17 1DB

- 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 J Dixon against the decision of Maidstone Borough Council.
 - The application Ref 19/500305/FULL, dated 18 January 2019, was refused by notice dated 31 October 2019.
 - The development proposed is construction of 6 x 1 bedroom tourist lodges.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the surrounding area and wider landscape, including the settings of nearby Listed Buildings.
 - Local biodiversity.
 - Future occupants of the proposed lodges in terms of noise disturbance and air quality.

Reasons

Character and appearance

3. The appeal site is a roughly triangular parcel of land located between a small cluster of residential properties, the M20 motorway and its associated infrastructure and embankment planting, and denser woodland which has the River Len passing through. The site itself is currently mown to grass, open, with limited built forms present, and is set against a mostly wooded backdrop that gives the site a secluded character, despite its closeness to the motorway. The access arrangements, via a gate at the end of a single track unsurfaced lane leading from the nearest road, further reinforces the secluded nature of the site.
4. Notwithstanding the site being within an area designated in the Maidstone Local Plan (the Local Plan) for its landscape value, due to its secluded nature described above, it is not open to notable public views beyond more distant glimpses through woodland from a footpath. As such, the sensitivity of the site in wider landscape terms is relatively low.

5. In visual impact terms, the proposed lodges and associated development would be relatively modest in scale. As the built development would be largely confined to the side of the site closest to the motorway there would be adequate space for planting and other measures to provide further screening, which could be the subject of planning conditions alongside conditions relating to the materials and other treatment of the development to help blend it into the surroundings.
6. The Council's comments about the desirability of conserving and restoring the parkland character of the landscape, as recommended in the Local Landscape Character Assessment, are noted. However, and taking account of the Assessment, in light of the nature of the development and the site, its lack of impact on the wider landscape, and the potential for visual screening, a refusal of permission on the basis of its impact on the character and appearance of the area and the wider landscape is not justified and the proposed development is not judged to be contrary to the requirements of Policy SP17 of the Local Plan.
7. As the appeal site is located within the proximity of the Kent Downs Area of Outstanding Natural Beauty (AONB) I have considered the duty under section 85(1) of the Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Due to the secluded nature and screening provided by existing features on and close to the site, the proposal would not have wider landscape implications for the AONB, including on its setting.
8. In deciding this appeal I have paid special regard to the desirability of preserving the settings of nearby Listed Buildings, including the Grade II Fir Cottage which is identified as being closest to the site. Due to the distance of the site from these Listed Buildings, their lack of visual and functional relationship, and the screening provided by the woodland, the proposed development would preserve their settings and would be otherwise consistent with policies in the National Planning Policy Framework on conserving and enhancing the historic environment.
9. In light of the above, the proposal would not have a harmful effect on the character and appearance of the surrounding area, the wider landscape, or the settings of nearby Listed Buildings. Consequently, I do not find conflict with policies in the Local Plan, in particular Policies SS1, SP17, DM4, DM30, and DM38 which includes requirements aimed at protecting the landscape and countryside, and ensuring that development is of a good standard of design and fits within its surroundings.

Biodiversity

10. The woodland adjoining the appeal site forms part of a locally designated wildlife site. The proposed development would bring with it a change in the nature of the use of the site by virtue of greater activity, including an increase in the number of visitors, hard surfacing and other built structures, lighting, and overnight stays.

11. Notwithstanding the appellant's assessment that the site itself offers negligible wildlife and wider biodiversity value, by virtue of its position in relation to the woodland and the nature of the activity proposed, there is a likelihood that the development would have wider impacts on biodiversity, in particular local wildlife. It is therefore important that the proposal is supported by adequate information to effectively evaluate the impacts and conclude on the likely affects.
12. Evidence provided by the appellant relating to impact on wildlife primarily takes the form of a plan that includes details of a walk over ecology survey and other related comments. This information provides only a brief assessment and is therefore insufficient, in particular in relation to the identification of possible habitat types and species and how the proposal might affect them.
13. As such, I conclude that the information provided is not an adequate baseline position from which assess the impact of the proposed development. Reference is made to potential enhancements that could result from the reintroduction of coppicing. The response from the County Council supporting such enhancement is noted. However, given the lack of baseline information described above I am unable to agree that this would represent suitable mitigation when balanced against the effects of the proposed development.
14. Given the nature of the legal and other duties relating to biodiversity, in the absence of suitable baseline and other detail, it would not be appropriate to require further information using conditions. It is also not possible to conclude that conditions designed to ensure that the works and development avoid harmful effects would serve their intended purpose.
15. Policy DM8 of the Local Plan states that lighting proposals that are near enough to significantly affect wildlife sites will only be permitted in exceptional circumstances. The evidence submitted does not allow me to conclude what the effects are and, if they are significant, that such an exception is justified in this case.
16. In light of the above, the information provided does not demonstrate that the proposal would not have a harmful effect on biodiversity. Consequently, I find conflict with policies in the Local Plan, in particular Policies DM3 and DM8 which includes requirements to incorporate measures into new developments to avoid direct or indirect adverse effects on sites of importance for biodiversity and a presumption against external lighting proposals close to local wildlife sites.

Living conditions of future occupiers

17. The Council's concerns relating to the standard of accommodation that would be provided given the proximity of the proposed development to the motorway are noted. However, the proposed development is intended to provide temporary holiday accommodation, which is a matter that can be controlled by conditions. Whilst this does not provide a reason in itself to allow accommodation that is substandard, limited detailed evidence has been presented to substantiate the Council's concerns relating to air quality and noise and disturbance.

18. As such, I conclude that the proposal would not have a harmful effect on future occupants of the proposed lodges in terms of noise disturbance and air quality. As such, I do not find conflict with policies in the Local Plan including DM1 and DM6 in relation to standards of accommodation and air quality.

Other Matters

19. Representations from third parties received as part of the planning application and in response to the appeal are noted, including comments from the County Council relating to the site being in a Mineral Safeguarding Area. Some of the comments raised relate to the main issues and are discussed above. Other comments do not affect my conclusions on the main issues.

Conclusion

20. For the above reasons the appeal is dismissed.

D. R. McCreery

INSPECTOR