
Appeal Decision

Site visit made on 31 May 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2020

Appeal Ref: APP/X2220/W/20/3244320

South of Summerfield House, Barnsole Road, Staple, CT3 1LD

- 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 D Chapman against the decision of Dover District Council.
 - The application Ref 19/00619, dated 22 May 2019, was refused by notice dated 3 September 2019.
 - The development proposed is private stables.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development is taken from the planning application form as it accurately and concisely describes the proposed development. However, the proposal was amended in the course of the application provide for a single stable and tack room. The appeal decision is based on these amended plans.
3. The site visit was delayed due to travel restrictions imposed during the Covid 19 pandemic. It was carried out on an unaccompanied basis on 31 May 2020. It was possible to see the site in sufficient detail from public land to fully assess the proposal and determine the appeal.

Main Issues

4. The main issues are:
 - i) Whether the site is of a sufficient size to accommodate the activities facilitated by the proposed stables; and
 - ii) The effect on biodiversity, with particular regard to the habitat of turtle doves.

Reasons

Equestrian Activities

5. The site comprises a field set between two houses, within a predominantly rural landscape composed of farmland and paddocks. Other existing stables are visible beyond the eastern boundary of the site. The proposed stable building would support a single animal, who would graze the field on a permanent basis.
6. Reference is made to guidance from the British Horse Society, which suggests that a ratio of two horses per hectare is appropriate where permanent grazing

is proposed. At 0.25 hectares, the field fails to meet this size requirement. This size threshold is not specifically reflected in planning policy. However it is a reasonable starting point for assessing the suitability of the site, for the activities that would be facilitated by the proposed development.

7. It is suggested that in this case the animal would be a pony, smaller than the average horse. However, there is no specialist evidence before me, for instance from an animal welfare professional, that clearly demonstrates the amount of assigned grazing land would adequately serve its exercise and nutritional needs. The proposal is therefore likely to result in pressure on the field, leading to a risk of overgrazing. As well as raising animal welfare concerns, this could also adversely affect the appearance of the land, diminishing its primarily grassed quality. This would detract from the wider rural landscape of which the site forms a part, harming the character and appearance of the area.
8. The site is not occupied in association with any nearby residential property, so maintaining the operation facilitated by the stable building would involve regular trips to and from the site from further afield. Given the small size of the field, this is also likely to involve regular supplementary feeding. Whilst a storage facility is provided within the building and an electricity and water connection to the site could be maintained, the details of the proposed management regime are limited. Planning permission runs with the land and personal circumstances can change over time. There is no guarantee the intensive management required, particularly given the small size of the field, would be sustained over the lifetime of the development. Planning conditions requiring continuous management of the site to avoid overgrazing and associated harm to the character and appearance of the area would be prohibitively difficult to enforce.
9. This would be a private facility. The evidence before me does not demonstrate that it is driven by a need to sustain the rural economy or the rural community. Furthermore, it has not been demonstrated that the proposed operation cannot be accommodated elsewhere. As such, it fails to accord with Policy DM 15 of the Dover District Council Core Strategy 2010 ("Core Strategy") which sets out relevant circumstances where development that adversely affects the character and appearance of the countryside will be permitted. The proposal also fails to meet saved policy DD21 of the Dover District Local Plan 2002 ("Local Plan") which requires that horse-related development will only be granted where it provides for the safety and comfort of horses in terms of the size of accommodation and land for grazing and exercising.
10. Both policies cited above are consistent with the National Planning Policy Framework ("the Framework"). This seeks to ensure planning decisions recognise the intrinsic character and beauty of the Countryside. In conclusion, the site is not of a sufficient size to accommodate the activities that would be facilitated by the proposed stable building. In this respect, the proposal conflicts with the development plan.

Biodiversity

11. The site is located within close proximity to a nature reserve which comprises turtle doves, a UK priority species. The Council note that turtle doves have historically been recorded as nesting within the site. This is also reflected in

past correspondence with the Royal Society for the Protection of Birds ("RSPB")¹.

12. There was an ecological survey conducted in July 2017 which appears to have been carried out in connection with a previous planning application on the site for residential development. It broadly concludes that the impact of that development on ecological interests, including priority and protected species, would be acceptable². However, this survey was carried out around 3 years ago. There is no up to date ecological survey evidence that demonstrates the presence or otherwise of such species, on the site.
13. Given the historic records of these birds nesting on the site and the proximity of the site to a nature reserve, I consider that there is still a reasonable likelihood that turtle doves are present on the site. The works involve the construction of a building and this is likely to have a harmful impact on the habitat of any turtle doves on the site. There is no certainty at this stage that the impact could be managed in an appropriate way, and consequently it would not be reasonable to deal with this matter through the use of planning conditions.
14. It is argued that ecological improvements could take place upon completion of the development, including improvements to the habitat of turtle doves. However, to be effective this must be informed by accurate baseline information about the habitat of the site and presence or otherwise of this species on it. At present, this information has not been provided.
15. I therefore conclude that, in the absence of up to date survey information there is an unacceptable risk of harm to biodiversity, with particular regard to the habitat of turtle doves. The proposal therefore conflicts with national planning policy, as set out in the Framework, which requires that development conserves and enhances the natural environment whilst avoiding significant harm to biodiversity.

Other Matters and Conclusion

16. The refusal notice also refers to policy DM 1 of the Core Strategy. This seeks to prevent development outside settlement boundaries unless it functionally requires such a location. In this case the grazing of horses functionally requires a countryside location, so there is no conflict in principle with this policy. However, this finding is of little relevance given the more significant conflict with policies DM 15 of the Core Strategy and DD21 of the Local Plan, as discussed previously in this decision.
17. The physical design of the stables is acceptable and would not detract from the rural landscape, whilst preserving the setting of the nearby heritage assets. The proposal would be set a sufficient distance away from existing residential properties to avoid any harm to the living conditions of neighbouring residents, including through noise and odour. Hedgerows could be retained and other landscaping measures, including biodiversity enhancement measures could potentially be provided.
18. The proposal would also offer additional private opportunities for recreation and leisure. A brief reference is made by the appellant to the proposal providing a facility for a person with a disability. In the course of the appeal, further

¹ Letter from the RSPB to Dover District Council dated 8 September 2017.

² DOV/17/00874, as discussed in the officers report.

information was sought on how the proposal might help achieve the aims of the Equality Act 2010 ("the Act"). No further information was forthcoming, and it was indicated that no further comments would be provided on this matter. In the absence of a detailed justification for the proposal on these grounds, I can only attribute minimal weight to any consequential benefits of the development.

19. Overall, the considerations that weigh in favour of the proposed development do not, even cumulatively, outweigh the risk of harm to animal welfare and the character and appearance of the area, as a consequence of the potential overgrazing due to the insufficient size of the site to accommodate the activities that would be facilitated by the proposed stables. Furthermore, there is also an unacceptable risk of harm to biodiversity interests. In both cases the harm cannot be overcome by planning conditions. The proposal therefore conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding.
20. Concerns are raised about the conduct of the Council in handling the planning application that led to this appeal. However, these have no bearing on the material planning issues involved in this appeal decision. Allegations of unauthorised activity being carried out on the site should be directed in the first instance to the local planning authority.
21. In conclusion, for the reasons given above, the appeal should be dismissed.

Neil Holdsworth

INSPECTOR