



Appeal Decision

Site Visit made on 25 May 2021

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Appeal Ref: APP/M2270/W/21/3267496

The Knowle, Former Brenchley Kennels, Knowle Road, Brenchley, Tonbridge, TN12 7DW

- 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 Mrs K Ezrati against the decision of Tunbridge Wells Borough Council.
- The application Ref 20/01057/FULL, dated 9 April 2020, was refused by notice dated 29 July 2020.
- The development proposed is the demolition and removal of an existing dwellinghouse (Little Knowle) and other existing buildings and areas of hard-standings last used as part of a commercial dog kennels and replacement with 1 No. single storey dwellinghouse with associated landscaping, car parking facilities, partial infilling works to pond (retrospective) and creation of a new vehicular access (part Retrospective).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to landscape setting.

Reasons

3. The appeal site comprises a large area of land that is adjacent to a number of existing buildings. It hosts an existing dwelling (Little Knowle House); the area and pond to the front (west) of Knowle Oast; and land to the side (south) of Knowle Oast which includes areas of hardstanding and some existing, dilapidated buildings. The appeal site is within the open countryside but is not within a formally protected setting. However, the surrounding landscape provides an attractive open, rolling plateaux with extensive views from the site to the north west, across a rural, predominantly agricultural landscape.
4. The appeal scheme proposes a new single storey dwelling in a position alongside the existing former oasthouse, known as Knowle Oast. The proposed dwelling would be finished externally with a brick plinth and weatherboarding and have a natural slate roof. There would be extensive areas of glazing on the rear elevation. There does not appear to be any particular design rationale for how the building's design has evolved. Similarly, there is no explanation as to its position and siting, which would be some distance from Little Knowle, the property it seeks to replace. Little account appears to have been taken of the pattern and scale of the surrounding context and built form. As a result, the proposed building would be read as an entirely new dwelling which is unrelated to, but extends, an existing group of buildings southwards towards Knowle

Lodge. The proposed dwelling would also benefit from a large curtilage which, through its use and associated domestic paraphernalia, would reinforce the visual impact of the proposal and the clear expansion of residential development in this open countryside location. Overall, and for these reasons, the dwelling and curtilage would have a negative effect on the positive aspects of the landscape I have identified.

5. With regard to the works to the pond, reference is made by the appellant to having consulted an ecologist at the outset of the project and that much of the work undertaken has been in the form of maintenance. However, there are no details or evidence to clarify the precise nature of the advice or recommendations. Similarly, there is little explanation regarding the creation of an island. Without a more detailed explanation of the ecological/bio-diversity rationale and benefits it is difficult to substantiate the appellant's claims that the infilling was necessary and beneficial. The Council's evidence suggests that the pond is an historical feature of the immediate area. Its substantial reduction, without good justification, accordingly reduces its natural quality.
6. At the time of my visit an access point had been created into the site and some fencing installed along the road frontage. The appeal proposal would offer a relatively low key approach to the creation of a new access at this point. However, other than to access the proposed dwelling, there appears to be no particular necessity for the access in this position. It is adjacent to the existing access serving Knowle Lodge and in close proximity to the access serving Knowle House, Little Knowle House, Knowle Oast etc. The noticeable increase in the number of accesses adds an urbanising feature, further disrupting the open and strong rural/agrarian quality of the landscape.
7. The alteration to the natural features around the site in terms of the access and works to the pond are in themselves small scale. However, in conjunction with the proposed dwelling, they would add to the harm that would be caused to the character and appearance of the area, referring to my earlier findings.
8. Accordingly, the appeal proposal would be contrary to Local Plan¹ Policies LBD1, EN1, EN25 and H10 and Core Strategy² Policies 4, 5 and 14 which amongst other things seek to ensure that where justified, replacement dwellings outside the Limits to Built Development are no more intrusive in the landscape than the dwellings they replace; that development respects the context of the site; and that it also conserves and enhances the landscape character of the area.

Other Matters

9. The appellant contends that Local Plan Policy H10 has been misapplied as the proposal involves both a replacement dwelling and the redevelopment of Previously Developed Land (PDL) but the policy only applies to replacement dwellings. The fact that the policy only makes reference to replacement dwellings, does not in my opinion, make it less applicable just because there are other matters to be considered. It seems to me that the policy remains applicable in relation to the replacement dwelling but that other material considerations (in this case the PDL) need to be weighed in the overall planning balance.

¹ Tunbridge Wells Borough Local Plan (2006)

² Tunbridge Wells Borough LDF Core Strategy (2010)

10. Although there is disagreement between the main parties, it appears to me as though some of the appeal site could possibly be considered as PDL. The Framework³ acknowledges that such land can sometimes provide the basis for redevelopment in the open countryside. However, in this case, the PDL would certainly be less than the area within the red line of the appeal site and less than the curtilage of the proposed dwelling. The appellant has sought to demonstrate that the total area of the existing and previous buildings and hardstanding, both within the appeal site and within the appellant's wider land ownership, would exceed the footprint of the proposed dwelling. However, some of this has now blended into the landscape so may not fall comfortably within the definition of PDL. Regardless of this, even if I were to conclude that the buildings and hardstanding were PDL, they are not, in my opinion, as visually prominent as the proposed development would be. As such, their impact on the wider landscape is significantly less harmful than the proposed development. I acknowledge that the land levels would help to reduce the building's prominence when viewed from Knowle Road but given the building's size, its curtilage and associated development, it would nevertheless have a harmful presence within the landscape for the reasons I have given.
11. I acknowledge that the site is untidy and that there is support for the proposed dwelling from neighbouring occupiers, who wish to see the site improved. However, the untidy nature of the site is a matter which is within the control of the appellant and is not a matter which is reliant upon the proposed development. Similarly, the existing buildings on site are in a poor state of repair but, for the reasons set out above, the benefit of their removal would not outweigh the harm that would be caused to the wider landscape by the proposed dwelling.
12. The appellant suggests that permitted development rights would allow one of the existing buildings on site to be demolished and replaced with a new dwelling. However, the Council considers the former commercial use to have been abandoned and thus permitted development rights are not available. The buildings do not appear to have been used for a long period of time and are in a poor state of repair. This does raise a legitimate question as to whether the previous commercial use has been abandoned. As I have no evidence before me in terms of a lawful development certificate to confirm that the commercial use is extant and that permitted development rights are available, the weight I can give this stated fall-back position is limited.
13. Alternatively, the appellant suggests that allowing this appeal would overcome such debate as to the site's use and permitted development rights by extinguishing any commercial operations once and for all. As I have already stated, I have no information to judge how possible it is that the commercial operations could recommence. In addition, there is no evidence before me to suggest that this commercial operation would recommence, even if it were able to do so. At present, the site is not operational and given the doubts as to whether it could lawfully recommence, I can attach only limited weight to this matter.

Planning Balance and Conclusion

14. The Council acknowledge that they are unable to demonstrate a 5 year housing supply. Accordingly, I must have regard to paragraph 11 of the Framework as

³ National Planning Policy Framework (2019)

in this context the most important policies are considered out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

15. I have found harm in relation to the effect of the proposed development on the character and appearance of the area. This harm is significant and as a consequence worthy of significant weight. The harm I have found would accordingly lead to conflict with the Framework, in particular paragraph 127, which amongst other things, seeks to ensure development is sympathetic to its landscape setting.
16. The appeal scheme would be a replacement dwelling, so would not add to the overall net supply of housing in the area although I acknowledge it would be newer and larger accommodation than the property it would replace. There would be other benefits associated with the provision of this replacement dwelling but these would be affected by the scale of the proposals and some would be time limited. Overall, and for these reasons, I would attach only a small amount of weight to them. As such, the adverse impacts of granting a planning permission would, in this case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It would not therefore be sustainable development for which the presumption in favour applies. The appeal should therefore be dismissed.

Stewart Glassar

INSPECTOR