



Appeal Decision

Site visit made on 13 October 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Appeal Ref: APP/E2205/W/21/3272401

Land at Applewood Farm, Pested Lane, Challock, TN25 4BD

- 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 Alex Collier against the decision of Ashford Borough Council.
 - The application Ref 20/00959/AS, dated 24 July 2020, was refused by notice dated 28 October 2020.
 - The development proposed is erection of dwelling with associated ecological and landscape enhancements (revised scheme to planning permission 20/00238/AS) and erection of an agricultural barn (replacement building to that approved under a deemed consent 19/00771/AS) to switch the two approved buildings with each other.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposed development on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB) and whether it would be suitably located having regard to local development plan policies.

Reasons

3. The appeal site contains two agricultural buildings with a small yard to the east and a grassed area to the west. Apart from the entrance it is screened by a tall roadside hedge. Pested Lane is very narrow and rural with a scattering of properties along its length. Otherwise it is characterised by open fields, paddocks and orchards.
4. In 2018 permission was given for the conversion of a cold store to a single dwelling. Permission was subsequently granted for the replacement of this agricultural building by the erection of a new dwelling. It was also determined in 2019 that prior approval was not required for the erection of an agricultural building for the storage of hay and associated machinery. This new building would be located in the grassed paddock to the west of the existing buildings.
5. In simple terms it is proposed to 'swap' these buildings around so that the agricultural building would replace the existing cold store and the dwelling would be located within the paddock to the west. There would be no increase in the quantum of development as a result.
6. The proposed single storey house would be positioned 'end-on' to the lane but this is not a location where an active frontage is critical. Indeed, its siting would limit the spread of development in this direction as the proposed dwelling would not extend as far westwards as the approved agricultural

building. The garden area would not be wide and so any domestication of the land would be modest in extent. Furthermore, there is no strong grain of development along the lane but rather the pattern of the few buildings is irregular. The proposal would maintain a linear form of development and would provide a transition to the countryside to the east that is comparable to the present situation. Overall, if implemented as proposed and given what has been permitted and approved, there would be no adverse impact on the AONB.

7. The appellant is not seeking to develop further units on the land but rather to substitute the permitted and approved buildings for one another. However, the permission for a new dwelling on the site of the existing agricultural building is still extant. If the appeal were allowed and permission given for a dwelling to the west then it would be physically possible to construct both dwellings.
8. A planning condition cannot be used to prevent an extant but unimplemented permission from being carried out as suggested by the appellant. A planning obligation is required to achieve this. There is therefore nothing in place to prevent both dwellings from being built. That may not be the appellant's intention but the implications of allowing this appeal should be fully considered.
9. Policy SP1 of the Ashford Local Plan 2030 has the strategic objective of focussing development at accessible and sustainable locations. An additional dwelling here would be well outside of Challock. Furthermore, the construction of a house would not accord with any of the exceptions for residential development in the countryside listed in Policy HOU5. It would therefore not be acceptable windfall development in the countryside. One dwelling has been accepted here due to the planning history but this does not justify a second dwelling in a location where it would not normally be permitted.
10. Moreover, the barn that was the subject of the prior approval application could also be constructed. If the proposed dwelling were permitted this would add to the amount of development that could be built in the AONB. Great weight should be given to conserving and enhancing its landscape and scenic beauty. There would therefore be negative consequences for the character and appearance of the AONB contrary to Local Plan Policy ENV3b.
11. In conclusion the proposal as presented would not harm the character and appearance of the AONB. However, there is no means of preventing the implementation of an existing permission for a dwelling. Taking this into account, the proposal would not be suitably located and it would also increase built development in the AONB.

Other Considerations

12. The proposal includes landscape and ecological improvements including a pond, wild grassland and planting to the residual land at the western end of the appeal site. Furthermore the 2020 scheme for the demolition and replacement of the cold store/barn with a new dwelling includes a small meadow area with fruit trees and an ecology pond to the north. If both schemes were carried out then both areas would be provided which would enhance biodiversity in line with the Framework. However, this does not override the more fundamental objections to additional residential development in the countryside that would detract from the AONB.

13. The agricultural barn proposed as part of this appeal would be further away from Pested Cottage than the approved agricultural building which would reduce the likelihood of disturbance to its occupiers. But given that the building could be erected under the prior approval provisions in any event this consideration is of limited weight.
14. The appellant has demonstrated that the site lies outside the Stour Lower operational catchment area. Therefore, there would be no pathway for any wastewater arising from the development to the nationally and internationally designated lakes at Stodmarsh. As a result there would be no likely significant effect on the water quality at this protected site, either alone or in combination with other plans and projects.

Conclusion

15. Compared to what has already been agreed, the proposal would enable an additional dwelling to be erected in the countryside contrary to the strategic aims of the Local Plan. This would also cause harm to the AONB. As such, the proposal would not accord with the development plan. There are no other material considerations that indicate a different decision should be reached. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR