



Appeal Decision

Site visit made on 4 May 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2022

Appeal Ref: APP/G2245/D/21/3278089

Merrie Weathers, Rooks Hill, Underriver TN15 0SL

- 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 & Mrs J B Sparrow against the decision of Sevenoaks District Council.
 - The application Ref 20/03790/HOUSE, dated 22 December 2020, was refused by notice dated 12 May 2021.
 - The development proposed is 'Removal of existing tennis court, demolition of ancillary two storey domestic barn and stables and erection of new ancillary single storey building'.
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Decision

1. The appeal is allowed and planning permission is granted for 'Removal of existing tennis court, demolition of ancillary two storey domestic barn and stables and erection of new ancillary single storey building' at Merrie Weathers, Rooks Hill, Underriver TN15 0SL in accordance with the terms of the application, Ref 20/03790/HOUSE, dated 22 December 2020, subject to the attached Schedule of Conditions.

Main Issues

2. The main issues are: i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; ii) the effect of the proposal on the openness of the Green Belt; and iii) the effect of the proposal on the character and appearance of the area, with particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Whether Inappropriate

3. Paragraph 147 of the Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework states that other than in the case of specific exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One such exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
4. The appeal site is a residential plot within the Green Belt occupied by a detached dwelling, a tennis court and a number of outbuildings. It is proposed to demolish 2 existing outbuildings (a former barn and stables), remove the

tennis court, and erect a new building. A certificate of lawfulness¹ has been granted by the council to confirm the former barn and stables have lawful uses for domestic purposes and that those buildings and the tennis court are within the residential curtilage of the dwelling.

5. The proposed building would be used for domestic purposes ancillary to the dwelling, the same as the former barn and stables. The former barn and stables are located over 5 metres away from the dwelling, and the proposed building would be located further away from the dwelling than the former barn and stables.
6. I have not been presented with the individual footprints or volumes of the former barn and stables, but the appellant has stated their combined footprint is 104 square metres and their combined volume is 542 cubic metres. The appellant has stated the footprint of the proposed building would measure 99 square metres and it would have a volume of 507 cubic metres.
7. The former barn is a substantial building with a mezzanine floor, appearing taller than the proposed building, but with a smaller footprint. The stables are a small, flat roofed single storey building. By comparing the combined footprint and volume of the former barn and stables to those of the proposed building, and taking into account the lower height of the proposed building in comparison to the former barn, the proposed building would not be materially larger than the buildings it replaces.
8. The proposed development would not therefore constitute inappropriate development in the Green Belt on account of it falling within the exception provided at paragraph 149(d) of the Framework.

Openness

9. Given that the proposal would not constitute inappropriate development in the Green Belt, the Framework does not direct me to assess the impact of the proposal on the openness of the Green Belt. However, Policy GB3 of the council's Allocations and Development Management Plan (2015) (ADMP) states permission will be granted for outbuildings located over 5 metres from the existing dwelling where they are ancillary to the main dwelling in terms of function and design and not materially harmful to the openness of the Green Belt through excessive bulk or visual intrusion.
10. The council has claimed the siting of the proposed building some 51 metres away from the appeal dwelling, between the appeal dwelling and a neighbouring dwelling, and its overall scale, would indicate the proposed building would not appear ancillary to the appeal dwelling. The proposed building would remain within the residential curtilage confirmed by the certificate of lawfulness, between the appeal dwelling and its entrance gate.
11. The proposed building would have a tall, pitched roof and glazed gable facing south, down the slope of Greensand Ridge. It would be a large outbuilding; however, its size would be commensurate with that of the appeal site and dwelling, which are both considerable. Its function, to house a classic car collection and home gym would be ancillary to the main dwelling, and I am satisfied that its design would reflect that use when seen as part of the wider appeal site in association with the dwelling. Its position between two dwellings

¹ Council ref: 20/02093/LDCEX

would not prevent its function and design from being ancillary to the appeal dwelling.

12. Despite its large size, it would not comprise excessive bulk or be visually intrusive to the openness of the Green Belt. I shall address its visual impact further below, but its bulk would be largely contained at ground floor level in comparison to that of the former barn, which appears as a 2 storey building. The former barn would be demolished as part of the proposal, and with that in mind, the tall, pitched roof of the proposed single storey building would not be materially harmful to the openness of the Green Belt through excessive bulk or visual intrusion.
13. The council's Supplementary Planning Document: Development in the Green Belt (2015) (SPD) advises that in order to minimise the impact of outbuildings on the openness of the Green Belt, the council will seek to restrict them to a limit of 40 square metres. The SPD does not provide any advice where existing buildings which also exceed that limit are proposed to be demolished.
14. Considering the footprint and volume of the proposed building would be less than those of the former barn and stables, which are to be demolished and thus ensure the proposal would not involve inappropriate development in the Green Belt, I am satisfied that the limit specified in the SPD is not directly relevant in this instance. The proposed development would therefore accord with Policy GB3 of the ADMP, the requirements of which are set out above.

The AONB

15. The appeal site is located on the side of Greensand Ridge, within The Sevenoaks Eastern Chart landscape character area, as set out in the council's Landscape Character Assessment² (LCA). It is described as a landscape of moderate sensitivity, with key characteristics which include: 'undulating landform, steep in places with a distinctive south facing wooded scarp at the edge of Greensand Ridge', 'some large 20th century detached properties with extensive grounds' and 'strong sense of enclosure with some long distance views'. The appellant has submitted a comprehensive Landscape and Visual Appraisal³ (LVA) which concludes that the proposal would not change the key landscape characteristics or elements and features of the AONB identified in the LVA or the LCA.
16. I saw views of the proposed building from publicly accessible locations close to the appeal site would be extremely limited due to the undulating topography of the fields immediately south of the appeal site combined with the thick hedgerows and trees along field boundaries. I was unable to see clear views of the whole of the appeal dwelling or the former barn from outside the appeal site in views along Rooks Hill. This suggests views from those positions of the proposed building, which would be lower in height than those existing buildings, would be similarly restricted.
17. There would be clear views of the proposal from the small fields immediately south of the appeal site, which are shown to form part of the appellant's land on the Location Plan, but those fields have clear views of the whole of the appeal site and its buildings. It would be seen as an ancillary building alongside the large appeal dwelling and gardens in those close views from the appellant's

² Sevenoaks Landscape Character Assessment prepared by LUC, dated January 2017

³ Briarwood Landscape Architecture Limited, June 2021

private land, which is enclosed by the thick boundary vegetation referred to above.

18. It is possible that the proposal would be partially visible in long views from lower land levels to the south, although the detailed assessments of the LVA suggest this would not be the case. The proposal would not therefore be in a 'highly visible' location, as claimed by the council, and I concur with the findings of the LVA that there would be minimal visibility of the proposed building from outside the appellant's land. As such, it would not interrupt the sense of rural tranquillity, effect views of open field patterns, or erode the sense of an isolated rural landscape experienced within and around the appeal site.
19. The design of the proposed building, which includes extensive glazing on its south elevation, would be modern in appearance, but the use of black weatherboard cladding and a tiled pitched roof would reflect the local vernacular. Further indigenous tree planting within the appeal site would enhance the transition from woodland north of the appeal site, down towards the fields to the south. The secluded location of the appeal site and the nature of the proposal's intended use would make it unlikely that light escaping from its glazing would highlight the building's presence or interfere with the dark skies associated with the AONB.
20. The proposed development would not therefore harm the character and appearance of the area and nor would it adversely affect the key landscape characteristics of the AONB. It would conserve and modestly enhance the natural beauty of the AONB through its simple design and associated planting. This would accord with Policy EN5 of the ADMP which requires the form, scale, materials and design of proposals within the AONB to conserve and enhance the character of the landscape, amongst other things.

Other Matters

21. A number of objections were received by the council when considering the application. In addition to the main issues set out above, many of those objections relied on a suggestion that the proposed building could be used as a dwelling, or would set a precedent for an additional dwelling at the appeal site. The design and siting of the proposed building, to serve a large dwelling within extensive grounds, do not indicate to me that it would be likely to be used as an independent dwelling, which would require a separate planning permission. Any application for planning permission must be judged on its own merits and by allowing this appeal I would not be setting a precedent for a new dwelling, which would be subject to different considerations.
22. The appellant's submissions make it clear that the proposed building would be used for purposes ancillary to the house, including the display of a classic car collection. The limited size of the proposed building would restrict the number of vehicles which could be displayed, commensurate to the size of the house and gardens, and to remain an ancillary use any such display would not attract visitors exclusively to view cars. Its vehicular access would run directly off the drive leading to the house, rather than create a separate access. I am therefore satisfied that the proposed use of the building would be ancillary to the house and would not be likely to result in more vehicle movements along Rooks Hill, other than during construction and demolition processes, which

would be a temporary impact capable of being reasonably controlled by a condition.

23. There may be the potential for a first floor to be installed within the proposed building in the future, but that would not necessarily prevent it from being used for the purposes set out in the application documents, ancillary to the dwelling, and would not result in any identifiable harm. Any potential future material change of use of the proposed building to a use which would not be ancillary to the dwelling would require planning permission and could be enforced against by the council if appropriate.

Conditions

24. It is necessary to attach a condition requiring the commencement of development within the relevant timeframe and a condition specifying the approved plans, in the interests of clarity. Full details of the weatherboard and tiled finishes of the exterior of the proposed building have not been provided, and it would be reasonable to require those details to be approved prior to the commencement of development to ensure its external finishes would be appropriate to the character of the area.
25. The narrow and steep access to the appeal site along Rooks Hill suggests it would be appropriate for a construction method statement to be approved prior to the commencement of development, which would need to specify appropriate access arrangements for all vehicles involved in the construction and demolition processes. There would be no need for the other details suggested by the council in this regard due to the extent of the proposed works and the large size of the appeal site.
26. I note the comments of Kent County Council's Ecological Advice Service, which raised no objections to the proposal and convince me there would be no material harm to biodiversity, subject to conditions requiring the proposal to achieve biodiversity enhancements and the mitigation of the potential effects of the proposal on bats. The Bat Survey⁴ states that its mitigation strategy would need to be finalised following consultation with Natural England and that further surveys may be required. As such, it would be reasonable and necessary to require the approval of a bat mitigation strategy prior to the commencement of development, notwithstanding the details already provided in the Bat Survey.
27. The biodiversity enhancements outlined in the Preliminary Ecological Appraisal Report⁵ refer to ponds and streams which do not appear to be within the appeal site, and potential landscaping plans. Further details are therefore required to demonstrate the proposal would conserve and enhance biodiversity in accordance with Policy SP11 of the council's Core Strategy (2011). I shall therefore attach a condition requiring the approval of those details prior to the commencement of development and a schedule for their implementation.
28. There are a number of trees within and surrounding the appeal site, including some close to the existing buildings which are proposed to be demolished. I have not been presented with any information concerning these trees, but they

⁴ Report number UE0395_Merrieweathers_Bats_1_201215 by Urban Edge Environmental Consulting Ltd, Revision 1 dated 15 December 2020

⁵ Report number UE0395_Merrieweathers_PEA_1_201215 by Urban Edge Environmental Consulting Ltd, Revision 1 dated 15 December 2020

make a positive contribution to the character and appearance of the appeal site and the surrounding area. Considering the potential for those trees to be damaged during demolition and construction works, I consider it would be reasonable to attach a condition requiring the approval of tree protection measures prior to the commencement of development, in the interests of protecting the character and appearance of the area.

29. The council has referred to the dark skies of the AONB, and I have concluded the glazing of the proposed building would be unlikely to cause any material harm to that characteristic of the AONB. In contrast to the proposed glazing, there is greater potential for harm to be caused to the dark skies of the AONB by external lighting. A condition preventing the attachment of external lighting to the proposed building would therefore be reasonable and necessary.
30. As I have found the proposal would not be inappropriate development in the Green Belt only where the former barn and stables are demolished, as proposed, it is necessary to attach a condition formally requiring their demolition. The existing tennis court would also need to be removed to accommodate the proposed building. It would be reasonable to require their demolition and removal prior to the proposed building being first brought into use.
31. The council has suggested a condition preventing any enlargement, improvement or other alteration of the land which may otherwise be authorised under the provisions of Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), in the interests of protecting the Green Belt. I take the council's suggested condition as seeking to prevent either the enlargement, improvement or other alteration of the proposed building or the erection of any additional buildings which may otherwise be authorised by the GPDO.
32. As the proposed building already requires express consent, no enlargement, improvement or other alteration of the proposed building would benefit from the provisions of Class E. Paragraph 54 of the Framework advises that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The GPDO allows various development within the Green Belt and I have not been presented with any evidence which suggests any development authorised under the provisions of Class E would cause unacceptable harm to the Green Belt as a result of the proposed development. As such, there is no clear justification to attach a condition restricting permitted development rights in this instance.

Conclusion

33. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should succeed.

L Douglas

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: JBS/20/010/02, JBS/07/010/03, JBS/20/010/04, 2030-02, 2030-03, 2030-04, and 2030-05.
- 3) No development shall commence until details of the materials to be used in the construction of the external weatherboard cladding and roof tiles of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for access arrangements for all vehicles involved in the construction and demolition processes hereby permitted. The approved Construction Method Statement shall be adhered to throughout the construction and demolition periods of the development.
- 5) No development shall commence until updated bat mitigation measures (as set out in the Bat Survey by Urban Edge Environmental Consulting Ltd dated 15 December 2020) have been submitted to and approved in writing by the local planning authority. The approved mitigation measures shall thereafter be implemented in full.
- 6) No development shall commence until details of how the development will enhance biodiversity, including a schedule for their implementation, have been submitted to and approved in writing by the local planning authority. The approved biodiversity enhancements shall thereafter be implemented in full.
- 7) No development shall commence, including any works of demolition, until details for tree protection measures during the course of construction and demolition, in accordance with BS5837:2012, have been submitted to and approved in writing by the local planning authority. The protection measures shall be implemented prior to commencement of development on the site, including demolition, and remain in situ in accordance with the approved details throughout the demolition and construction phases.
- 8) The building hereby permitted shall not be first brought into use until the existing barn (shown on drawing number JBS/20/010/04) and the existing stables (shown on drawing number JBS/07/010.03) have been demolished in their entirety and the existing tennis court has been removed in its entirety, as shown on the Proposed Site Plan (drawing number 2030-03).
- 9) No external lighting shall be attached to the building hereby permitted.