
Appeal Decision

Site visit made on 30 March 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/U2235/W/21/3279807

Yelsted Court Barn, Yelsted Lane, Sittingbourne ME9 7UT

- 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 R Lack against the decision of Maidstone Borough Council.
 - The application Ref 21/501808/FULL, dated 1 April 2021, was refused by notice dated 15 June 2021.
 - The development proposed is described on the application form as 'Part retrospective change of use of existing garden to provide shepherd's hut holiday-let accommodation'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of garden land to provide 1no. shepherd's hut holiday-let accommodation, with access, landscaping and parking at Yelsted Court Barn, Yelsted Lane, Sittingbourne ME9 7UT in accordance with the terms of the application, Ref 21/501808/FULL, dated 1 April 2021, subject to the conditions appended to this decision.

Preliminary Matters

2. At the time of my site visit, some elements of the proposal were in situ. Regardless of what has been constructed to date, my assessment is based on the plans before me.
3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development comprises the change of use of garden land to provide 1no. shepherd's hut holiday-let accommodation, with access, landscaping and parking. The Council dealt with the proposal on this basis and so shall I.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the surrounding area, including on the Kent Downs AONB.

Reasons

5. The appeal site comprises a sloping parcel of land enclosed by a stock boundary fence, with a mature hedgerow and trees along the west boundary. The site is accessed from Yelsted Lane via a setback gate.
6. The site is located within the Kent Downs Area of Outstanding Natural Beauty. Areas of Outstanding Natural Beauty (AONBs) are designated for the purposes of conserving and enhancing natural beauty. Section 85(1) of the Countryside

and Rights of Way Act 2000 (as amended) places a duty upon me to have regard to these purposes in this decision. Supporting this objective, the National Planning Policy Framework (the Framework) paragraph 176 sets out how great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

7. The surrounding area has a rural character, largely comprising agricultural land but with some woodland and equestrian uses amongst it. Farmsteads and occasional buildings exist in the landscape, some of which can be viewed from the site. Although the appeal site contributes to the rural character of the surrounding area it makes only a limited contribution to the landscape character of the AONB.
8. The proposed development includes the retention of the shepherds' hut (the hut), together with associated access and landscaping proposals. The existing hut is visible from the main access to the site on Yelsted Lane. However, this is a fleeting view, particularly if travelling by car. This is largely due to the well-screened approaches to the site by existing landscaping.
9. Similarly, glimpsed views of the hut can be obtained from further along Yelsted Road due to the change in topography. From further afield, the limited views of the appeal site are seen in the context of Yelsted Court Barn, situated above it. I am aware that I visited the site during early spring when most of the vegetation remained dormant. I have no doubt that later in the year vegetative growth here would further limit views of the appeal site.
10. The use of timber cladding and corrugated metal to the roof of the existing hut assimilates appropriately with its surroundings. I noted on my site visit that several larger properties in the surrounding area were constructed, or finished, in timber cladding of a similar appearance to the existing hut. As such, its design and appearance, combined with its limited scale, does not appear incongruous in this rural location
11. In respect of the reference to residential paraphernalia, I was able to view the extent of this during my site visit. Although I noted that some chairs, a small fire pit and two bicycles existed next to the hut, these were not visible from outside the site, are moveable and have no impact on the character and appearance of the surrounding countryside. Whilst reference has been made by neighbours to the installation of an underground septic tank and foundations, these elements are not readily visible and do not have a detrimental effect on the character or appearance of the surrounding area.
12. In respect of the impact on landscape character, the proposed development would have a neutral effect. The site is self-contained and has limited significance in terms of the wider AONB character.
13. In respect of LP policy DM30, where there is a preference for existing buildings to be converted or reused in lieu of new development, where practicable, the very specific and purposefully niche nature of the development, as shepherd's hut holiday-let accommodation, is such that this would not be practicable in another form. Where this is the case, there is a necessity in policy that the development is well located and well screened by existing or proposed vegetation which reflects the landscape character of the area. As reasoned above, the site is already well screened from many public vantage points by mature landscaping. I noted on my site visit that several saplings have been

recently planted throughout the site and others are proposed within the submitted plans. As a result, the hut and proposed access through the site would be adequately screened to reflect the character of the area.

14. In conclusion, the limited size of the development, together with its position in a secluded location, set near to existing development and of a design that is not out of keeping with the surrounding area, is such that the development would be acceptable and would have a neutral impact on the landscape setting of the AONB. Consequently, I find that the proposal would accord with the relevant provisions of LP Policies DM1, DM3, DM30, DM38 and SP17. These policies, in summary, seek to ensure that the open countryside and AONB are protected from inappropriate development. This is consistent with the objectives of the Kent Downs AONB Management Plan (2014-2019) and the Framework (2021) in so far as design and the natural environment is concerned.

Other Matters

15. I note the comments raised by occupiers of neighbouring properties in respect of living conditions, including the effect on privacy, noise and disturbance and light pollution. Highway safety issues have also been raised.
16. The distance between the development and nearby residential properties is significant, with intervening boundary landscaping. As such, there would unlikely be any unacceptable loss of privacy to neighbouring occupiers as a result of the scheme. A certain level of noise would be generated by vehicles accessing and visitors using the site. However this noise would likely be low level given the small-scale accommodation proposed and would not be uncommon in the surrounding area given the proximity to established residential properties. Similarly, the level of light produced by the proposed development is likely to be limited, both in its extent and timing of use. The same applies to barbeque and wood smoke fumes.
17. Whilst I acknowledge references to a hot tub, no such proposal is before me. A hot tub does not feature within the proposed plans and does not exist within the site, as demarcated on the submitted plans.
18. Turning to highway safety, there is no substantive evidence before me in respect of existing volumes of traffic on the adjacent road. Irrespective of this, the traffic likely to be generated by a single shepherds' hut would be minimal and, in all likelihood, would vary throughout the year, tailing off in the winter months. As such, the overall volume of traffic would remain low, as too would the noise it generated. Although I acknowledge the objective of LP Policy DM23 in seeking electric vehicle charging infrastructure in new developments, I do not consider this reasonable given the rural, field location of the appeal site and the potential visual impact such infrastructure could result in.
19. Nearby Yelsted Court Farmhouse and Guildstead Court are Grade II listed. Statute¹ places a duty on me to consider the impact of the development on the special architectural and historic interest of the listed buildings affected, and their settings, having special regard to the desirability of preserving the buildings or their setting or any features of special architectural or historic interest. Paragraph 199 of the Framework states that when considering the

¹ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

20. Guildstead Court is a fifteenth century house with eighteenth and nineteenth century additions. It is finished partly in chequered red and grey brick, partly in flint and brick dressings, with a central section comprising timber-frame construction with rendered infilling. The roof is of plain roof tiles. The building fronts Yelsted Lane. Yelsted Court Farmhouse is an eighteenth century house finished a combination of render and flint with brick dressings under a plain tiled roof. The building is positioned at a right-angle to Yelsted Lane.
21. Both buildings are set within their own plots and in both cases are best viewed from Yelsted Lane, where they can be appreciated along the curve of the road. In the case of Guildstead Court, the property is set behind a landscaped front garden and in the case of Yelsted Court Farmhouse, behind mature hedgerows and trees. The listed buildings remain relatively unspoilt in their rural and verdant settings.
22. There is no dispute between the main parties that either the significance or setting of the listed buildings would be affected by the development. Based on the evidence before me, and my observations on site, I have no reason to disagree and I find no harm in respect of these heritage assets, their setting therefore being preserved.
23. I note representations made by nearby residents around the effect of further such developments in the future. However, there is no substantive evidence before me of any proposed development of a similar nature and therefore there is no indication that there is a reasonable likelihood that this would occur. Accordingly, I give this matter limited weight. I have no evidence before me to substantiate claims that the proposed development would cause a loss of habitat or damage to native species.
24. The Council states that the proposal is not supported by a detailed forecasted projection of potential business to be generated or evidence of an identified need for a holiday let in the local area. However, LP Policy DM38, which deals specifically with holiday caravan and camp sites, does not require such information to be submitted.
25. The Council refers to appeal decisions for proposals at Land at Rosewood Farm under Refs APP/U2235/C/18/3196793 and APP/U2235/W/18/3200492. I have had regard to these cases, however the proposals there are for a gypsy/traveller site made up of mobile homes and touring caravans. As such, the context is not directly comparable and I have considered this appeal on its own, individual merits.
26. I acknowledge the photographs provided by a neighbour. It is evident that some of these are taken with zoom functions and do not reflect realistic views of the site from afar. Other photographs are provided during the course of construction, however I am assessing this case on the basis of the proposed plans and what I saw for myself during my site visit.

Conditions

27. The Council has provided a list of conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and

have amended the wording of some, and combined provisions of others, without altering their fundamental aims.

28. As the application is retrospective, and the development has been commenced, I have not included a suggested condition requiring commencement within the relevant statutory period. I have imposed a condition requiring adherence to the relevant plans for certainty, particularly as the development has been only part implemented.
29. Following my reasoning above, a condition is necessary to restrict the occupation of the shepherd's hut in order to support the tourism industry and prevent its occupation as a permanent dwelling. Further, a condition restricting the days of occupation is included for clarity.
30. I have also imposed a condition restricting the development to no more than one shepherd's hut, in the interests of clarity. As this is the development proposed, I am satisfied that no interested party would be prejudiced by the imposition of this condition.
31. A suggested condition that requires one electric vehicle charging point to be installed is not considered reasonable given the location of the property and the fact that this is not a permanent dwelling.

Conclusion

32. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 21_23_PL01A and 21_23_PL02A
- 2) The development hereby permitted shall be occupied for holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all future occupants, and this information shall be made available at all reasonable times upon request to the local planning authority.
- 3) The holiday accommodation hereby permitted shall only be occupied continuously by any persons for a period not in excess of 28 days and not for more than 112 days in any calendar year.
- 4) No more than one shepherd's hut shall be stationed on the land at any time.