

Appeal Decision

Hearing held on 9 August 2022

Site visit made on 9 August 2022

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 8 September 2022

Appeal Ref: APP/E2205/W/21/3266911

Greenacres Farm Fishery, Sissinghurst Road, Biddenden TN27 8EH

- 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 Greenacres Farm Fishery against the decision of Ashford Borough Council.
 - The application Ref 19/00505/AS, dated 29 March 2019, was refused by notice dated 26 October 2020.
 - The development proposed is erection of new bailiffs cabin and siting of 4 holiday-lets on site.
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Decision

1. The appeal is allowed and planning permission is granted for erection of new bailiffs cabin and siting of 4 holiday-lets on site at Greenacres Farm Fishery, Sissinghurst Road, Biddenden TN27 8EH in accordance with the terms of the application, Ref 19/00505/AS, dated 29 March 2019, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Graham Hawes against Ashford Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the application process, the number of proposed holiday lets was reduced to four and the application was determined by the Council on this basis. I have therefore used the description of development from the decision notice in the header and decision above.
4. While the application form states that the site address is Greenacres Farm, from the evidence it is clear that the proposal relates to Greenacres Farm Fishery as stated in the appeal form. I have therefore updated the header and decision accordingly.

Main Issue

5. The reason for refusal relates to noise and disturbance. However, during the hearing, the Council clarified that the disturbance would, in their view, arise from headlights from vehicles using the access as well as noise-related disturbance.
6. Therefore, the main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to noise and light.

Reasons

7. The site comprises an existing fishery business which includes four large ponds that were granted planning permission in 2007. Conditions were attached to the planning permission that limits the number of anglers using the site to no more than 30 in a 24-hour period and restricts entrance to/exit from the fishery outside the hours of 0700 and 1900.
8. The proposal for the bailiff's cabin would introduce a dwelling onto the site. Since it would be a two-bedroom dwelling, it could be occupied by a small family. It is likely therefore, that the cabin would result in some noise from domestic activities such as conversations between the occupants and children playing outside the cabin.
9. However, the bailiff's cabin would be located a significant distance from the closest dwellings and the likely number of future occupants would be limited. Therefore, the noise arising from the occupants of the cabin would be unlikely to result in undue adverse effects on the living conditions of neighbouring occupiers.
10. Turning to the holiday lets, the proposed camping pods would be a modest size such that they would be unlikely to accommodate more than two people at a time. As I observed during my site visit, each camping pod would be located near separate ponds which are surrounded by dense vegetation and trees.
11. Given the limited number of camping pods and future occupiers, the location of the proposed camping pods, the need for low noise levels while fishing and limited facilities on the site, future occupiers of the pods would be unlikely to generate undue levels of noise. It is therefore unlikely that the holiday lets would be used by large numbers of people intending to host parties. Furthermore, the use in connection with the fishery could also be controlled via a suitably worded condition.
12. Moreover, the presence of the bailiff would further mitigate against any undue noise from the future occupiers and in any event, the holiday lets would be a significant distance from the nearest dwellings such that noise arising from them would be unlikely to result in an undue effect on the living conditions of neighbouring occupiers.
13. With respect to the access from Sissinghurst Road, the access to the site is between two dwellings that front the highway, Greenacre Farm and Nithdale. There would be additional trips to and from the site that would result from the cabin and holiday lets. As such, the use of the access would be intensified.
14. Whereas the entry to and exit from the site is currently controlled by condition, it would be unreasonable to impose such a restriction on the occupiers of the cabin as it would be the primary residential dwelling of the occupants. Therefore, it is likely that there would be vehicles using the access outside of the times currently permitted.
15. There appears to be one window on the flank elevation of Nithdale that faces the access. There is also a tall fence and substantial boundary planting such that the movement of vehicles through the access would be unlikely to unduly affect the living conditions of the occupiers of this property.

16. There are around four windows at ground level and two dormer windows at first floor of the dwelling at Greenacres Farm which face the access. Furthermore, there is no boundary treatment along the side of the property other than some low-level planting.
17. Therefore, the sound of movement of vehicles through the access would be likely to be heard within the dwelling at Greenacres Farm. In addition, the light from headlights of vehicles would be likely to affect the occupiers albeit primarily during the winter months.
18. However, the opening and closing of vehicle doors and associated conversations between people would be likely to occur at the parking spaces near the holiday lets and bailiff's cabin rather than at the start of the access near Greendale Farm and Nithdale. In addition, given the location of the gate, holiday lets and bailiff's cottage some distance from the highway, vehicles would be unlikely to linger near these dwellings.
19. I note that the access from the road to the gate of the fishery is currently uncontrolled and the area to the rear of Greenacres Farm is used for parking around 3 vehicles. The access also appears to serve a dwelling at Little Greenacres Meadow which is accessed off the same path as the fishery. As such, the occupiers of Greenacres Farm and Nithdale are currently likely to experience a degree of noise and light from passing vehicles including outside of the time restrictions in place for the anglers using the fishery.
20. The number of trips from a single dwelling is likely to be limited, particularly given the modest number of future occupiers. As such, the proposed bailiff's cabin would be unlikely to result in undue adverse effects on the living conditions of neighbouring occupiers with regard to noise and light.
21. Given the limited number of holidays lets and their modest size accommodating primarily sleeping space, the number of future occupiers would be likely to be modest. Therefore, the number of additional trips to and from the site would also be likely to be limited such that the noise experienced at the access from the road would be limited. In addition, as discussed during the hearing, the holiday lets would be likely to be in use primarily during the summer months and at weekends.
22. Moreover, the presence of the bailiff together with a condition requiring the implementation of a management plan would mitigate any undue harm from noise that would be likely to occur around the holiday lets and cabin as well as at the entrance to the access. In addition, the condition attached to the 2007 planning permission limiting the number of anglers and the entrance to and exit from the site of associated vehicles would remain in place and could be incorporated into a management plan which would be secured by condition.
23. Consequently, the proposed development would not harm the living conditions of neighbouring occupiers with respect to noise and light. Therefore, it would not conflict with Policies HOU5 and EMP11 of the Ashford Local Plan 2030 Adopted February 2019 which seek development that does not adversely impact on the neighbouring uses or on a good standard of amenity for nearby residents and seek tourism facilities in appropriate locations.

Other Matters

24. I note local concerns regarding the proposal including the proposed residential use of the bailiff's cabin. The matter of whether the bailiff's cabin would cater for an essential need for a rural worker to live permanently at their place of work in the countryside is not a reason for refusal and the Council has not raised concerns in this respect. From the evidence, I see no reason to disagree.
25. Given the limited number of future occupiers and modest size of the bailiff's cottage and holiday lets, there would be unlikely to be undue adverse effects with respect to security, urbanisation, wildlife and light pollution. Concerns regarding drainage and waste management could be mitigated through the use of suitably worded conditions.
26. While I also acknowledge the evidence regarding enforcement, this is a matter for the Council, and I have necessarily made my assessment based on the proposal before me. Therefore, these matters have not altered my overall decision.

Conditions

27. The standard conditions relating to time limit and specifying plans are necessary in the interests of certainty. The parties have suggested that a temporary planning permission could be granted with respect to the bailiff's cabin. A temporary planning permission is necessary to enable the efficacy of the proposed business plan and management plan to be assessed. Since it is unlikely, that the noise and light arising from the bailiff's cabin would unduly affect the living conditions of neighbouring occupiers in the intervening time, I will grant such a temporary planning permission.
28. The suggested condition relating to the inspection of the site is not necessary as the Council would have this right in any event. Conditions restricting the use of the bailiff's cottage and holiday lets to be ancillary to the fishery business are necessary to safeguard living conditions of neighbouring occupiers.
29. The condition relating to the external materials of the bailiff's cabin and holiday lets is necessary to safeguard the character and appearance of the area. A condition relating to drainage and biodiversity are necessary in the interests of flooding and biodiversity. These conditions need to be pre-commencement as they are likely to affect the early stages of construction.
30. Conditions relating to a management plan, refuse and external light are also necessary to safeguard the living conditions of neighbouring occupiers. The conditions requiring a register of the occupiers of the holiday lets to be kept and means of collection of refuse are necessary to safeguard the character and appearance of the area. The conditions relating to sewage and an ecological appraisal are necessary in the interests of environmental sustainability.

Conclusion

31. For the reasons given above the appeal should be allowed.

R Sabu 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: 2018-026v5-Location (25 February 2020); 2018-026v5-PropBlock (25 February 2020); 018-026v5-PropBlockA (25 February 2020); 2017-024v1-PropElev (15 March 2018); 2017-024v1-PropFloor (14 March 2018); Dwg. No. 1 – Camping Pod (May 2019).
- 3) The bailiff's cabin hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The building hereby permitted shall be removed and the land restored to its former condition in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 4) The bailiff's cabin shall be occupied solely for the management of the fishery and for no other purpose and shall be removed if the said approved fishery use ceases.
- 5) The holiday lets shall be used for holiday accommodation ancillary to the fishery business only and shall not be occupied by any person as his or her sole or main place of residence.
- 6) No development shall commence until written details including source/manufacturer, and samples of bricks, tiles and cladding materials to be used externally in the construction / finishing of the bailiff's cabin and holiday lets hereby approved, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved external materials.
- 7) No development shall commence until plans and particulars of a sustainable drainage system (including the details below) for the disposal of the site's surface water have been submitted to and approved in writing by the local planning authority.

The approved system shall be provided in accordance with a timetable which shall have been submitted to and approved in writing by the local planning authority. The approved system shall be maintained in accordance with the approved details and shall be retained in working order until such time as the development ceases to be in use.
- 8) No development shall commence until a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall take account any protected species that have been identified on the site, and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals within it and shall be carried out in perpetuity.
- 9) Prior to the commencement of development above slab level, details shall be provided in writing to and be approved by the local planning authority of the means of collection of refuse. The scheme shall be carried out in accordance with the approved details thereafter.

- 10) Prior to the first use of the development hereby approved, a management plan for the site (To include the requirement for a register to be kept available at all times of all car registration numbers of all visitors to the site, to distinguish vehicle movements related to the holiday lets and the bailiff's cottage, from those associated with anglers. This would enable existing out of hours movement restrictions for anglers to be maintained), shall be submitted to and approved in writing by the local planning authority. The site shall be managed in accordance with the approved details thereafter.
- 11) Prior to the first use of the buildings hereby permitted works for the disposal of sewage shall have been provided on the site in accordance with details to be submitted to and approved in writing by the local planning authority.
- 12) An up to date register shall be kept, in legible English, of the main or home address of each of the owners of (and, if different, each of the occupiers) and of any guests using each caravan or holiday let and shall make the register available for inspection by the local planning authority at an address notified in writing to the local planning authority at 48 hours notice.
- 13) Development shall be carried out in accordance with recommendations of Preliminary Ecological Appraisal (Iceni Ecology Ltd - November 2018).
- 14) No further external lighting shall be installed on the site without the prior written consent of the local planning authority.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Simon McKay BSc MA MRTPI	Director, SJM Planning Ltd
Graham Hawes	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Apperley BSc MA	Ashford Borough Council
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INTERESTED PARTIES:

Martin Parker