



Appeal Decision

Site visit made on 21 March 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/U2235/W/22/3311667

Still Acres Touring and Camping Park Longend Lane, Marden, Tonbridge, Kent TN12 9SE

- 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 K Still against the decision of Maidstone Borough Council.
 - The application Ref 22/501972/FULL, dated 19 May 2022, was refused by notice dated 22 July 2022.
 - The development proposed is 'demolition of 4 No. stables, retention of 5 No. stables and change of use of land from paddock to residential to allow the siting of 1 No. caravan with incidental paddock plus associated access road and parking'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant has submitted a Preliminary Ecological Appraisal dated October 2022 ('the PEA'), specifications for bird and bat boxes, and an amended Proposed Block Plan drawing which indicates locations for bird and bat boxes. These provide further information on the effect of the proposal in relation to biodiversity, and the minor changes to the Block Plan would not materially alter the development from that previously considered by the Council and interested parties. In addition, the Council were able to comment on the additional information as part of their response to the appeal, albeit that they have not explicitly done so. In these circumstances, I am satisfied that my consideration of the PEA, specifications and amended Proposed Block Plan would not prejudice the interest of any party, and I have taken them into account.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether or not the development would be in a suitable location having regard to relevant development plan policies and accessibility to services and facilities; and
 - iii) the effect of the proposal on biodiversity.

Reasons

Character and Appearance

4. The appeal relates to a grassed paddock with stables which the appellant advises has been used for the stabling of horses and associated recreational use. The site

is accessed through the Still Acres Touring and Camping Park site. It is located between Marden and Collier Street, outside of any settlement boundary as defined by the Maidstone Borough Local Plan 2017 ('the LP'), and is within the countryside in planning policy terms.

5. Near to the site, there are some buildings at Colliers End and a few other buildings along Longend Lane, but the former are loose knit, and the latter are typically scattered fairly widely with intervening open fields and parcels of woodland. The wider Still Acres site includes caravan pitches, warden's chalets, some single-storey amenity buildings and an area used for the storage of caravans as well as associated parking and access. However, these are low level structures set within surrounding open fields, usually with vegetated boundaries, and I find that there is a generally rural character and appearance to the countryside in the vicinity of the site.
6. The paddock includes an 'L-shaped' block of 9 stables together with a modest area of hardstanding. At the time of my visit, there were also a shipping container and two trailers present on the site. These reflect features commonly found as part of equestrian sites in rural locations, and their modest scale and utilitarian appearance together with their positioning very close to boundary vegetation means that they are fairly unobtrusive. In addition, the majority of the paddock comprises open grassland, and while it is not entirely 'greenfield', I find that it makes a positive contribution to the generally rural character and appearance of the area. The appellant has drawn my attention to extant planning permission that would allow for a surfaced access track, hardstanding and 9 parking spaces on the site resulting in around 200sqm hardsurfacing. However, even if these works were implemented, the development would be at ground level limiting its visual impact and would cover a relatively modest proportion of the overall site. It would also be appreciated in conjunction with the stables, and in my assessment would not significantly diminish the existing rural character and appearance of the paddock.
7. The proposal includes the change of use of part of the paddock to residential to allow the siting of a caravan. The appellant contends that the caravan would not comprise operational development. Nevertheless, it would result from the proposed residential use of the land, and would be accompanied by an associated garden and parking for two vehicles. In my view, the presence of these combined features on this part of the site would transform its appearance to one that was clearly domestic.
8. The Council has not alleged conflict with the requirement within Policy SP17 of the LP for development in the countryside to retain the separation of individual settlements, and I have no firm reason to find differently. In addition, the development would be close to caravans, warden's chalets and amenity buildings within the wider Still Acres site. The Council indicates that there are conditions controlling, amongst other things, the period and the duration that the caravans may be occupied, but the warden's chalets can be occupied longer-term, and I also observed mobile homes at Longend Meadow to the south east. I find in this context that the residential use would not be incongruous in this location, and I cannot agree with the Council that it would appear as alien in this part of the rural landscape.
9. Be that as it may, the paddock is set slightly apart from the closest caravan pitches at Still Acres beyond intervening boundary vegetation. There is also

clear separation to the development at Longend Meadow, and I consider that the paddock is currently appreciated as distinct from these sites and as part of the open countryside. I recognise that part of the existing stable building would be removed. There would also be a reduction in the total area of hardsurfacing from that currently permitted, and the proposal would result in the relocation of the permitted access away from the southern boundary and the provision of parking closer to the stables. However, the section of the stables to be removed would be fairly modest in scale. I have already identified that the stables are an unobtrusive feature, and they sit comfortably as part of the rural area. Similarly, I have found that the access, parking and hardstanding permitted in association with these stables would not significantly diminish the rural character and appearance of the site.

10. Irrespective of the fact that the stables are permanent features, I therefore find that the small reduction in built form and the alterations to the extent and layout of hardsurfacing from that currently permitted would offer a negligible enhancement to the rural character and appearance of the area. In contrast, the introduction of residential use onto this site would by its very nature be urbanising to its rural surroundings, and in my view would more than offset these limited benefits.
11. The appellant has suggested that each of the 9 existing stables could be used by separate owners, with each horse attended to up to 3 times a day and associated paraphernalia. This may theoretically be possible, but there is no objective evidence before me to demonstrate that such use or levels of activity and paraphernalia have occurred nor that it is a realistic prospect. The weight that I can afford to the appellant's assertions that there would be a reduction in activity and vehicle movements at the site, and less visually intrusive paraphernalia, is accordingly limited.
12. The appellant comments that they would be willing to accept a further reduction in the number of stables on the site. However, I have no firm details to show how this could be achieved. Such a change would also appear to result in conflict with the description of development applied for which refers to the retention of 5 stables. I am not therefore satisfied that this could be dealt with by way of a planning condition.
13. I also appreciate that there would be few opportunities for public views of the development. Where views would be likely to be available, including from the public footpath which connects to the vehicular access through the site, these would also take in the wider Still Acres site, and landscaping including boundary planting could also provide for some screening of the development. Given these factors, the visual impact of the proposal would be localised and limited, and I find that the wider landscape would not be unacceptably harmed.
14. Nevertheless, and irrespective of nearby caravans, the urbanising effect of a residential use on the site would in my assessment be markedly more intrusive in the countryside than the existing use, built form and activity. I find that the proposal would result in an unwelcome incursion of residential development into the countryside. Although the site is not within the Green Belt or subject to any particular landscape designation, the development would not recognise the intrinsic character or beauty of the countryside and would diminish the generally rural character and appearance of the area, eroding its local distinctiveness.

15. The appellant comments that a large number of caravans were granted permissions at Still Acres without any removal of built form, but their evidence also refers to LP Policies DM38 and DM39 which are positively-worded policies relating specifically to holiday caravans and caravan storage in the countryside, acknowledging that such uses can be acceptable outside of settlements. The permissions at Still Acres may have been granted before the adoption of the current iteration of the LP. However, and notwithstanding that the Council's report on the application for storage of caravans refers to Policy SP17 of the then emerging LP, there is in any event no firm evidence of direct compatibility with the individual circumstances of this appeal which concerns a new residential use in the countryside.
16. I also note an appeal decision granting outline planning permission for up to 4 dwellings at Land adjacent to West View, Maidstone Road where the appellant advises no pre-existing built form was present and that there would be a far greater visual impact given the location on a busy A road. I do not have full details of the scheme, but the appeal decision refers to existing built form to the north and south of the site, and it comments that the development would act as a continuation of this ribbon of built form and that it would replicate the existing ribbon development on the opposite side of the road. It therefore seems to me that it can be distinguished from the appeal site which is set within surrounding generally open countryside.
17. For these reasons, I conclude that the proposal would harm the generally rural character and appearance of the area. As a consequence, it would conflict with Policies SS1, SP17, DM1 and DM30 of the LP insofar as they include requirements broadly seeking protection for the rural character of the borough and development that maintains or enhances local distinctiveness and that responds positively to and does not harm the character and appearance of an area.
18. The appellant has suggested that policies of the LP relating to the countryside are concerned largely with new built form. However, Policy SS1 refers generally to protection of the rural character of the borough avoiding coalescence between settlements, and Policies SP17 and DM30 are phrased in terms of requirements for 'development' or 'proposals' rather than built form. I appreciate that specific requirements and criteria within some of the policies may be more directly relevant to built form, for example those referring to materials and the mass of development, but I can see no reason that the policies as a whole would not be applicable to development that did not include new buildings.

Location

19. Policy SS1 of the LP outlines the spatial strategy for the borough and the Council's approach to the distribution of development. It seeks broadly to focus development towards an expanded Maidstone urban area, with a secondary focus for housing development in rural service centres, and some further limited housing development at named larger villages. It also identifies broad locations for significant housing growth. In other locations, it states that protection will be given to the rural character of the borough avoiding coalescence between settlements. Policy SP17 relates specifically to the countryside where it sets out that development will not be permitted unless

proposals accord with other policies in the plan and they will not result in harm to the character and appearance of the area.

20. I have found in this case that the proposal would harm the character and appearance of the rural area resulting in conflict with requirements within Policies SS1 and SP17. However, while residential development in the countryside is not encouraged by the spatial strategy, I am not persuaded from the evidence before me that it would be specifically precluded, nor that the location of the development would, in itself, result in conflict with Policies SS1 or SP17. In addition and despite the Council's assertion to the contrary, I have been unable to find reference in the reasoned justification to Policy SP17 to sites beyond development boundaries being generally less sustainable, and with poorer access to local services and employment opportunities so that it is appropriate to restrict development in the countryside to proposals supported by other specific policies in the LP.
21. That said, paragraph 4.16 of the reasoned justification to LP Policy SS1 does explain that development must be delivered at the most sustainable towns and villages where employment, key services and facilities together with a range of transport choices are available.
22. There is some difference between the main parties over the closest road in Marden and the time that it would take to walk there, but journeys on foot to reach services in Marden would be over 2 miles even from the site access to Longend Lane, and a greater distance from the residential plot. In addition, the majority of the route would be along unlit roads, mostly without pavements. The appellant has provided details of buses which serve stops on Collier Street, but the stops are some way from the site access, and services are relatively infrequent. I consider that these factors would significantly inhibit the attractiveness of walking and travel by bus as an option. While Collier Street School may be within reasonable walking distance, opportunities to access a range of services and facilities necessary to meet day-to-day needs by means other than the private vehicle would be limited, resulting in a considerable reliance on private vehicles by future occupiers of the development.
23. Nevertheless, the proposal includes the removal of 4 existing stables, and the appellant advises that the remaining 5 stables would be used in association with the residential use. I have found little firm evidence to show that there would be a significant reduction in activity and trips to and from the site. However, the existing use could undoubtedly generate some journeys, and I consider that a single residence with associated stables would be unlikely to result in a significant increase in the number of trips.
24. In this context, I find that there are particular circumstances which mean that the accessibility of the site to services and facilities would not weigh against the proposal. The National Planning Policy Framework ('the Framework') also seeks, amongst other things, housing in locations where it will enhance or maintain the vitality of rural communities. The contribution would be very limited given the scale of the development, but spending by occupiers of the site could offer some support to local services in line with this objective.
25. Notwithstanding that there would be a reliance on private vehicles, I therefore conclude that the proposal would in this particular case be in a suitable location having regard to its accessibility to services and facilities. In this respect, the location of the site within the countryside would not in itself conflict with

Policies SS1 or SP17 of the LP. However, this does not negate or outweigh the harm that I have found would be caused to the character and appearance of the area.

Biodiversity

26. The PEA includes an assessment of habitats on the site and the likelihood of species being present. It recommends measures to reduce potential adverse effects during construction and as a result of lighting on the site. It also recommends the installation of bird and bat boxes (including the relocation of an existing bat box) which could deliver ecological enhancements, and the amended Proposed Block Plan also indicates locations for bird and bat boxes around the site.
27. The Council has not raised concerns in relation to the PEA or its findings, and I have no firm reason to doubt that it provides a reasonable and up-to-date assessment of the biodiversity value of the site and how this may be affected by the proposal. The implementation of the precautionary and mitigation measures recommended within the PEA could be secured by planning condition. Subject to these measures, I am satisfied from the evidence before me that the development would not cause unacceptable harm to biodiversity and I find no conflict with Policy DM3 of the LP which broadly seeks protection and enhancement of the natural environment including through protection of features of biological interest. The proposal would also accord with the Framework insofar as it seeks to minimise impacts on and provide net gains for biodiversity.

Other Matters

28. Policy DM5 of the LP provides that the residential redevelopment of brownfield sites in the countryside may exceptionally be permitted where, amongst other things, the redevelopment will result in a significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.
29. Notwithstanding my findings that there are circumstances which mean that the development would be in a suitable location having regard to its accessibility to services and facilities, it would not be accessible by sustainable modes to any of the settlement types listed within Policy DM5. Nor has it been demonstrated that it could be made so. Moreover, while there would be some potential to enhance biodiversity as part of the development including through native planting, the information before me does not clearly demonstrate the extent of any enhancement, and I am not satisfied that it could reasonably be described as offering a significant environmental improvement. Irrespective of the appellant's view that the proposal could not be expected to contribute to accessibility improvements given its scale, it would not therefore fulfil the requirements of Policy DM5 for residential redevelopment to be permitted here as an exception.

Planning Balance and Conclusion

30. The Framework indicates that where the policies which are most important for determining an application are deemed to be out-of-date, which may include in circumstances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, the presumption in favour of

sustainable development test set out in paragraph 11(d) would be engaged. This provides that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

31. I have found that the circumstances of the site are such that it would be a suitable location for housing having regard to the accessibility of services and facilities, and that there would not be unacceptable harm caused to biodiversity. However, there would be harm to the character and appearance of the area resulting in conflict with Policies SS1, SP17, DM1 and DM30 of the LP. The proposal would also be contrary to the Framework insofar as it seeks development that recognises the intrinsic character and beauty of the countryside and development that is sympathetic to local character. Neither party has suggested that Policies SS1, SP17, DM1 and DM30 are inconsistent with the Framework in these regards so as to reduce the weight that any conflict with them would warrant.
32. The Council considers that it can demonstrate a 5 year supply of deliverable housing, commenting in its evidence that the supply position is 5.6 years. As part of their final comments, the appellant refers to an addendum to the Housing Land Supply Update Analysis Paper published by the Council in November 2022 which shows a lower supply of 5.14 years. They further assert that the Council does not have a 5 year supply, providing a copy of a proof of evidence submitted by another party as part of a different appeal which argues that the supply position is 3.27 years. I do not know the outcome of that appeal and any conclusions reached in relation to housing supply. In addition, the appendices to the proof of evidence have not been submitted to me, and its incomplete form limits the weight that I afford to this document.
33. The Framework seeks to significantly boost the supply of housing. It promotes the effective use of land to meet needs for homes, and acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. In this context, the provision of an additional residential unit is an important benefit. However, even if I were to accept the appellant's position on housing supply and afford significant weight to the benefit of housing provision, the extent of the benefit would be very limited given the small contribution that the proposal would make to supply in the borough.
34. There would be some economic and social benefits associated with construction and occupation of the development, as well as increased patronage of local services which could support the vitality of rural communities. I give these moderate weight, but they would be similarly limited by the small scale of the development. There would be potential to enhance biodiversity including through native planting, although the information before me does not clearly demonstrate that the extent of any improvement would be significant, and I give modest weight to this as an environmental benefit. That the proposal may not result in disbenefits in terms of transport, flood risk or ecological impacts are neutral factors that weigh neither for nor against it.

35. Even if there was a shortfall in housing land supply as suggested by the appellant and giving significant weight to the benefit of the delivery of a residential unit, I consider that the adverse impacts of the proposed development on the rural character of the area and the intrinsic qualities of the countryside would significantly and demonstrably outweigh the modest benefits when assessed against the policies in the Framework taken as a whole. Whether or not paragraph 11d of the Framework were engaged, the proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework. Neither do I find that there are material considerations sufficient to justify a decision otherwise than in accordance with the development plan.

Conclusion

36. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR