



Appeal Decision

Site visit made on 4 April 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2023

Appeal Ref: APP/V2255/W/22/3301412

Greet Cottage, Lady Margaret Manor Road, Doddington ME9 0NT

- 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 Davison against the decision of Swale Borough Council.
 - The application Ref 21/505131/FULL, dated 20 September 2021, was refused by notice dated 20 December 2021.
 - The development proposed is described as “demolition of existing residential dwelling, complete with outbuildings and large Nissan Hut and construction of new detached residential dwelling complete with integral supplementary annexe.”
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. No ecological survey was submitted with the planning application or with this appeal. While the appellant indicated they would provide a survey, the ‘Procedural Guide: Planning appeals – England’ states the appeal process should not be used to evolve a scheme¹. Therefore, I have based my decision on the proposal as set out in the application that was before the Council and upon which notification took place.

Main Issues

3. The main issues in this appeal are:
 - i. The effect of the proposed development on biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects.
 - ii. Whether the proposed development would conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Biodiversity

4. Habitats and features on and around the site, such as buildings, trees, grassland and shrubs, indicate potential for biodiversity to be present. This includes potential for protected species such as roosting bats. Ecological surveys are therefore necessary to ascertain whether and to what extent

¹ Annex M ‘Can a proposed scheme be amended?’, paragraph M2.1

biodiversity, including protected species, might be affected by the proposed development.

5. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."
6. There is no evidence before me to be sure if protected species are present, which ones and the extent to which they may be affected by the proposal. Therefore, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm as required by paragraph 180 of the National Planning Policy Framework (the Framework); or whether such measures could be provided and secured. No exceptional circumstances have been demonstrated such that the required ecological surveys could be left to coverage by a planning condition, notwithstanding the parties' willingness to follow this approach. I am therefore not satisfied this approach would meet the requirements of Circular 06/2005.
7. For the above reasons, I conclude the proposed development does not adequately demonstrate the effect on biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects. It therefore has potential to result in significant harm to biodiversity, including protected species. This is contrary to Policy DM28 of Bearing Fruits 2031: The Swale Borough Local Plan (SBLP), which protects biodiversity and requires development proposals to be accompanied by appropriate surveys to assess impacts where it is likely the site may be used by protected species. It is also contrary to Circular 06/2005 and the Framework as summarised above.

Area of Outstanding Natural Beauty

8. Paragraph 176 of the Framework says great weight should be given to conserving and enhancing the landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB). The Kent Downs AONB comprises undulating chalk downs with a diverse topography of valleys and plateaux. It is an historic, farmed landscape of fields and hedgerows within networks of drove-ways and sunken lanes. There are scattered villages, isolated farmsteads and small, remote settlements situated amongst orchards, ancient woodlands, scrub, heath and grassland. Views can be extensive or intimate resulting in a sense of space, beauty and tranquillity.
9. The appeal site comprises a modern bungalow and outbuildings set within a relatively large garden. It is on the edge of a small, isolated cluster of traditional buildings of varying sizes. The nearest building is separated from the appeal site by a large garden and mature trees. Access to the appeal site is from a narrow lane lined by hedgerows. The appeal site's garden is lower than the lane and is therefore partly concealed by the boundary hedge. The site is bounded on two other sides by ancient woodland. These features contribute to the secluded feel of the site, which is not widely visible from surrounding locations or the nearby public footpath.

10. The proposed dwelling would be slightly further away from the rest of the cluster than the existing bungalow. However, the area of the site currently occupied by buildings would be landscaped so would blend into its surroundings in time. This could be secured by condition were the appeal to be allowed, as could any measures necessary to protect existing trees. As a result, there would be slightly improved views of the neighbouring building on the approach down the lane. The siting of the new building would therefore continue to be well related to the existing cluster of buildings nearby.
11. At two storeys, the main part of the new house would be taller than the bungalow. However, the appearance of height would be partly reduced by the lower level of the garden area on which it would be sited, relative to the lane. It would be set further back from the site boundary than the existing dwelling and its main façade would be oriented away from the road. This, along with the boundary hedge and surrounding woodland, would also reduce the appearance of width and bulk. The single storey annexe would be largely concealed by the main building. The materials and design details of the proposed dwelling would be like those traditionally used in the area. This could be secured by condition and would be an improvement on the appearance of the current bungalow and outbuildings. Overall, the proposal would enhance, rather than be intrusive in, the nearby settlement and wider AONB.
12. It has been put to me the floorspace of the proposed house would be significantly larger than that of the bungalow. The Council refers to its 'Designing an Extension: A Guide for Householders' supplementary planning document (SPD), which advises that an extension to a dwelling in a rural area should not normally result in an increase of more than 60 percent of the property's original floorspace. However, as the proposal is for a replacement dwelling, the floorspace criteria of the SPD do not apply. The single building of a similar overall footprint to the existing ones would also consolidate the built form, rather than the current spread across the site.
13. For the above reasons, I conclude the proposed development would enhance the landscape and scenic beauty of the Kent Downs AONB. Accordingly, I find no conflict with Policies ST1, ST3, CP3, DM11, DM14 and DM24 of the SBLP; principles SD2, SD3 and SD9 of the Kent Downs AONB Management Plan; and the Framework. These policies seek to conserve and enhance the intrinsic character, beauty, landscape and tranquillity of the countryside; support replacement dwellings in rural areas of an appropriate scale, mass and appearance in relation to the original dwelling and location; and maintain and strengthen the historic and locally distinctive character of rural settlements and buildings in the Kent Downs AONB.

Other Matters

14. I appreciate the appellant sought pre-application advice from the Council. However, I have determined this appeal on its merits based on the information before me.
15. The Council is satisfied with the impact of the proposed development on the living conditions of neighbours, parking, traffic and highway safety. Even if there would be no harm, these would be neutral factors and would not weigh in favour of the scheme.

Conclusion

16. I conclude the proposal does not adequately demonstrate the effect on biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects. It therefore has potential to result in significant harm to biodiversity, including protected species. I attribute significant weight to this harm, which outweighs my conclusion that the proposal would enhance the landscape and scenic beauty of the Kent Downs AONB. Consequently, for the reasons given above, having had regard to the development plan as a whole, the Framework and all other matters raised, the appeal should be dismissed.

C Carpenter

INSPECTOR