



Appeal Decision

Site visit made on 20 March 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2023

Appeal Ref: APP/G2245/W/22/3300803

**Land South of Tudor House, Rushmore Hill, Knockholt, Sevenoaks
TN14 7NG**

- 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 M Edge against the decision of Sevenoaks District Council.
 - The application Ref 21/03774/FUL, dated 16 November 2021, was refused by notice dated 22 March 2022.
 - The development proposed is the erection of 2 polytunnels, erection of storage/potting/office/facilities building in connection with a horticultural nursery.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 polytunnels, erection of storage/potting/office/facilities building in connection with a horticultural nursery at Land South of Tudor House, Rushmore Hill, Knockholt, Sevenoaks TN14 7NG, in accordance with the terms of the application, Ref 21/03774/FUL, dated 16 November 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. There is no dispute between the parties that the proposed development is not inappropriate development in the Green Belt under the exception in paragraph 149 criterion a) of the National Planning Policy Framework (2021), (the Framework), and as such there would be no harm to the openness of the Green Belt by reason of this exception. As the proposed buildings are of a size, design and layout that are appropriate for the intended agricultural use, I have no reason to take a different view in determining this appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is a broadly rectangular shaped field located within the countryside that is accessed from Randles Lane via a gated entrance and bounded by Rushmore Hill on another side. Apart from a stable building that is set back from the Randles Lane frontage, the site is mostly open and set to grass.
5. Built development in the wider locality generally consists of individual buildings spaced apart and small groups of buildings, mostly residential dwellings, that

are set in a loose knit and dispersed pattern. Most buildings are set back from the road within generous grounds that include substantial trees and dense planting, particularly along the frontages to Rushmore Hill as it gently winds its way through the countryside. These characteristics give the area its distinctively rural and verdant character and appearance.

6. The proposed storage/potting/office/facilities building has a simple functional appearance. Although it would be considerably larger than the existing stable building in terms of its length, height and overall massing, it would not be markedly out of scale with the buildings in the wider locality. These include some substantial two storey dwellings and the occasional non residential building.
7. Furthermore, the character of the area differs on this side of Rushmore Hill and Randles Lane, transitioning from the residential character on the opposite side to a more open and rural setting where the appeal site is located. In this context the functional agricultural appearance of the proposed building would not appear out of place within the relatively large and open field, where it would relate well to the established pattern of development in the wider locality.
8. Due to the openness of part of the site frontage to Randles Lane, the proposed building would be clearly visible in shorter distance views from the area around the junction of Randles Lane with Rushmore Hill, and from the residential properties opposite. Set back into the site and positioned partly behind the existing stable block, the proposed building would not be unduly prominent in these views. It would be seen largely against the backdrop of dense rows and groups of trees bordering the northern site boundary and those growing further to the west in the distance.
9. In these views, the dark green colour finish to the surfaces of the walls and roller shutter doors of the proposed building would ensure that the building sufficiently blends in against its backdrop. The colour finish would reflect the verdant and mature character and appearance of the appeal site's surroundings, particularly when the trees are in leaf. The hardstanding extension associated with the construction of the new building to provide access to its largest roller shutter doors on the adjoining side elevation, is proportionate to its intended purpose and would have little impact on the appearance of the site.
10. The proposed building would be substantially screened in longer distance views by the dense boundary planting along the Rushmore Hill site frontage, even when not in leaf, which consists of closely spaced tall trees and dense hedgerow planting at its base. This includes dense planting which extends along almost the full length of the Rushmore Hill site frontage and also continues alongside Rushmore Hill beyond the junction with Randles Lane.
11. Whilst the Council's reason for refusal refers to the potential for light pollution, the evidence before me does not indicate a need for particularly intensive outdoor lighting. The appellant states that activities associated with the growing and potting of plants would be carried out during daylight hours. In any case, outdoor lighting would be controlled by a suitably worded planning condition to reflect the recommendations of the appellant's Preliminary Ecological Appraisal (PEA) and the advice of the County Council Biodiversity Officer.

12. Nonetheless, I recognise that artificial light from within the building would likely spill out from door and window openings during hours of darkness, including through the proposed translucent roof panels, and be seen as a glow amongst the generally dark surroundings of the locality. However, when taking account of the sizes and number of windows and door openings in the building through which light could spill out from and be seen, including the translucent roof panels, the presence of artificial light in this location would not appear out of place given the light sources arising from and associated with existing buildings along Rushmore Hill and Randles Lane. Consequently, I am satisfied that the proposal would not introduce or lead to unacceptably harmful levels of light pollution within the rural setting.
13. The proposed polytunnels would be relatively low in height and set well back from the road frontages and grouped together to limit their presence. Although they would be visible in part from Randles Lane and Rushmore Hill, they would not be prominent features in the street scene. They would mostly be seen against the back drop of taller trees and planting growing along the north boundary of the site and growing in the distance. As such, those elements of the proposal also would not harm the character and appearance of the area.
14. The evidence before me indicates that the trees along the site frontage to Randles Lane are not formally protected. I note the concerns expressed over the removal of trees, including any limited loss to facilitate improvements to the site access. However, I am satisfied that such alterations would not significantly alter or harm the prevailing rural and verdant character and appearance of the area. As such, they have not influenced my conclusions on this matter.
15. For these reasons, the proposal would not have a harmful effect on the character and appearance of the area. As such, it would comply with Policy EN1 of the Sevenoaks District Council Local Plan – Allocations and Development Management Plan (Adopted February 2015), which amongst other objectives, requires development to respond to the scale, height, materials and site coverage of the area, and respect the character of the site and the surrounding area.

Other Matters

16. I have taken account of the small scale and nature of the proposed use, and the location of the proposed development relative to the closest residential properties. I am satisfied that there is adequate separation to ensure no unacceptable impacts on the living conditions of neighbouring occupiers with respect to noise and disturbance arising from the activities carried out on the site, including the comings and goings of vehicles, and the emissions of odour. The distances of separation between the proposed development and nearby residential properties would prevent a harmful loss of privacy for the occupiers.
17. The appeal site is served by an existing vehicle access to Randles Lane. At the time of my site visit, I observed only the occasional vehicle travelling along Randles Lane. Although only a snap-shot in time, I have no substantive evidence that would lead me to conclude that such traffic conditions are abnormal to those commonly experienced. The site access provides drivers exiting or entering the site, and road users within the carriageway, with satisfactory visibility in which to see each other. There is sufficient space within the site for vehicles to turn and exit the site in a forward gear. These

characteristics, together with the low key nature of the proposed development and use, would not result in a significant increase in the use of the existing access, which joins a road that is comparatively lightly trafficked. As such, I am satisfied that the proposed development would not result in an unacceptable increase in the risk of accidents or harm to highway safety in this location.

18. My attention has been drawn to previous planning applications on the same site and on other land within the same ownership that is within the Green Belt. This includes a previous Council refusal at the site in 2021 for a substantially similar proposal of 2 polytunnels and storage/potting/office facilities building in connection with a horticultural nursery, together with dismissed appeals for a barn in 2014, and separately for a change of use of land to dog exercise field in 2017. However, I am not bound by previous Council decisions that were not the subject of appeals. Furthermore, I have not been provided with full details of the appeal cases or decisions. Nonetheless, based on the evidence before me, it is apparent that the proposed barn was materially different to the proposal before me insofar as it was found to be inappropriate development in the Green Belt. In addition, I consider it reasonable that the potential impacts of using the appeal land as a dog exercise yard upon the living conditions of occupiers of residential properties is not akin to the more low key activities associated with the proposed development before me. As such, I have necessarily assessed the appeal proposal on its own merits.

Conditions

19. The Council has suggested several conditions which I have considered in accordance with the tests for imposing conditions set out in the National Planning Policy Guidance (the PPG) and the Framework. Where necessary I have amended the wording of the suggested conditions to ensure compliance with the tests. In the interests of certainty of the planning permission granted, conditions are imposed to necessarily indicate the time limit and specify the approved plans.
20. Based on the recommendations in the submitted PEA and the Council's rationale, it is necessary to impose conditions that control outdoor lighting to avoid a negative impact on bats or their status in the area, and to provide landscaping to deliver a gain in biodiversity in accordance with Paragraph 174 of the Framework. Requiring the landscaping to be retained and maintained for an appropriate duration whilst it becomes established is also necessary. In the interests of precision and to give certainty to the parties, I have adjusted the trigger for submission of the landscaping details and have included a requirement for an implementation programme.
21. I have had regard to the Council's rationale for suggesting a condition requiring the removal of the proposed storage/potting/office/facilities building should it cease to be used for agricultural purposes within a period of 10 years following first use. The PPG¹ states that a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. The parties do not suggest that the proposed building is anything other than intended to be permanent.
22. I note the Council's concern that the relatively small size of the appeal site may prevent effective use by another agricultural occupier, should it become vacant.

¹ PPG paragraph: 014 Reference ID: 21a-014-20140306

However, the evidence before me, which includes a review of the application by the Council's agricultural advisor and who raised no concerns about the future viability of the applicant's enterprise, does not substantiate the Council's concerns in this regard. For these reasons, the suggested condition requiring the removal of the building should it become vacant, is unnecessary and would not be reasonable.

Conclusion

23. For the reasons given above and having regard to all matters raised, I conclude that the appeal proposal is consistent with the development plan as a whole. The appeal should be allowed.

G Sylvester

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: drawing nos. 01, 03, 04 and 04 Revision A.
- 3) No development above slab level shall take place until details of soft landscaping works, including a programme for implementation and details of maintenance, have been submitted to and approved in writing by the local planning authority. The submitted details shall include a 5m wide vegetated buffer zone in accordance with the recommendations contained within the Preliminary Ecological Appraisal (dated February 2021). All planting shall be carried out in accordance with the approved details and implementation programme, and thereafter maintained in accordance with the approved details. Any trees or plants that, within 5 years of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 4) Outdoor lighting shall not be installed at the site, except in accordance with a detailed lighting scheme that shall first have been submitted to and approved in writing by the local planning authority. The detailed lighting scheme shall be carried out, retained and maintained thereafter in accordance with the approved details.

End of schedule