



Appeal Decision

Site visit made on 13 June 2023

Decision by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2023

Appeal Ref: APP/X2220/W/22/3304060

Land East of Rusham Road and South of Nash Road, Shatterling, Kent, Easting 626218, Northing 158785

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ben Manterfield, of Euroforest Ltd against the decision of Dover District Council.
 - The application Ref 22/00481, dated 11 April 2022, was refused by notice dated 7 June 2022.
 - The application sought planning permission for the temporary change of use of agricultural land to storage of timber (retrospective) without complying with conditions attached to planning permission Ref 21/00061, dated 1st March 2022.
 - The first condition in dispute is No. 1 which states that: *The use of the land hereby permitted shall cease by or prior to 31 August 2022.*
 - The reason given for the condition is: *To comply with the terms of the application and to safeguard the rural character and appearance of the area.*
 - The second condition in dispute is No.2 which states that: *Within one month of the cessation of the use of the land hereby permitted or on or before 30 September 2022, whichever is the sooner, the associated signage, fencing, gates, lighting and CCTV shall be removed from the land and the land restored to its former condition, prior to when the use first commenced.*
 - The reasons given for the condition is: *To safeguard the rural character, appearance and beauty of the countryside.*
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refer to policies of the New Dover District Local Plan. This is currently at the examination stage and has not yet been adopted by the Council as part of its development plan. Accordingly, I can only give such policies limited weight in the decision making process.

Background and Main Issue

3. The appellant has a contract to supply felled timber to a nearby energy plant. Whilst the majority of timber is supplied directly to the plant, there is a requirement for an additional 12,000 tonnes of stock to be stored off-site for contingencies.

4. Following the submission of an application in 2021, temporary planning permission for the change of use of agricultural land for the storage of timber was granted in March 2022. Condition 1 of that permission requires the timber storage use to cease by 31 August 2022. Condition 2 requires the associated signage, fencing, gates, lighting and CCTV to be removed from the land, and the land restored to its former condition by 30 September 2022.
5. The appeal before me relates to an application for the 'variation' to conditions 1 and 2 of the permission. This would allow the temporary use of the land to continue until 31st March 2023. The associated signage, fencing, gates, lighting and CCTV would be required to be removed from the land by 30th April 2023.
6. The main issue is the effect that varying the conditions would have on the rural character and appearance of the area.

Reasons

7. I undertook my site visit in June 2023, several months later than the proposed dates (31 March 2023 and 30 April 2023) which the appellant had sought to vary the conditions to. At the time of my visit there was a small amount of timber remaining at the site. However, when compared to the aerial view of the site provided by the appellant, it appeared that the majority of timber had been removed from the site. From the evidence before me, the appellant is not seeking any extension beyond the dates – which have now passed – in Conditions 1 and 2. Consequently, even if I were to allow this appeal, the date by which the temporary use of the site should have ceased would already have passed.
8. The application site is within the countryside outside any urban area or rural settlement. It is surrounded by open agricultural land. There is hedging around the site, and a barn to the front of the site, features which limit some views of the storage area from Nash Road. However, views from other directions are open and the timber storage area is less visually impeded in longer range views. The storage of the logs, which, when the storage area is fully utilised, are highly visible and of significant scale such that they create an incongruous feature. As a result, they have a harmful visual impact on the rural character and appearance of this part of the countryside.
9. Policy DM15 of the Core Strategy (2010) sets out that development which would adversely affect the character or appearance of the countryside will only be accepted subject to certain exceptions, for instance, where the development is justified by the needs of agriculture. It has not been put to me that any of these exceptions apply in this instance.
10. The appellant indicates that they are seeking to relocate the use to another permanent site in the locality. They allege that had the Council dealt with their pre-application advice in a timely manner, the planning application for the alternative site could have been submitted and determined in a shorter timeframe, thus negating the requirement to vary the conditions in question. The Council has confirmed that a planning application for this alternative site has been submitted to the Council, however, I have not been provided with any update on the progress of that application.
11. Notwithstanding this, the Planning Practice Guidance (PPG) sets out that under section 72 of the Town and Country Planning Act 1990 a local planning

authority may grant planning permission for a specified temporary period. Circumstances where a temporary permission may be appropriate include those where it is expected that the planning circumstances will change in a particular way at the end of that period. The PPG confirms that it will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities).

12. It has been indicated that clearing the site of timber within a month would require 600 lorry loads, causing a significant intensification of vehicles on the quiet, narrow roads surrounding the site. Furthermore, moving the timber elsewhere before a suitable site with planning permission is ready would result in double handling which would not be economically or environmentally logical. As the site was largely empty of timber at the time of my site visit, it seems to me that these scenarios are unlikely.
13. It has been put to me that the additional storage is required to ensure a continuous timber supply in times of disruption as a result of Brexit, Covid-19, transport problems or fuel shortages. Whilst this may be so, I have not been provided with compelling evidence to demonstrate that there are no other viable alternative sites for the storage of the timber. Consequently, these factors would not outweigh the harm to the character and appearance of the countryside which I have identified above.
14. Having regard to all matters raised, I consider that the conditions are necessary and reasonable in the interests of the rural character and appearance of the area. There would be conflict with Policies DM15 and DM16 of the Core Strategy (2010) which amongst other things seek to safeguard the character and appearance of the countryside. Similarly, there would be conflict with the principles of the National Planning Policy Framework (2021), which states that decisions should contribute to and enhance the natural and local environment

Conclusion

15. For the reasons given above, I find that the proposal would conflict with the development plan, when read as a whole. There have been no material considerations set out which, either individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

B Pattison

INSPECTOR