



Appeal Decision

Site visit made on 25 October 2023

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/H2265/W/23/3318610

Land to the south of Stocks Green Road, Hildenborough, Tonbridge, Kent TN11 8LT

- 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 Terry Powis of KTC Developments Ltd against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/22/01459/FL, dated 2 July 2022, was refused by notice dated 14 October 2022.
 - The development proposed is rebuild of a former Smock Mill for use as a holiday let and erection of 3 dwellings (proposed enabling scheme)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice as this accurately and concisely describes the development proposed.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area including with regard to the setting of the nearby Grade II Listed buildings, and the countryside.
 - The effect of the proposed development on biodiversity.
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The

Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in paragraph 149 and 150 of the Framework.

5. The appeal scheme does not represent an extension to a building, nor am I satisfied that the appeal site should be considered previously developed land. The Council's evidence and the appellant's planning statement agree that the proposed development would not meet the exceptions. As such, it would be inappropriate development in the terms of the Framework and Policy CP3 of the Core Strategy (2007) (CS) which requires that National Green Belt policy is applied.

Openness

6. Openness has both spatial and visual aspects. The proposed development would introduce three substantial detached dwellings and a tall mill onto what is presently a mainly open site. As such there would be significant harm to spatial openness. Although set back from the road, due to their size these buildings would be highly visible from Stocks Green Road, particularly from the access, as well as from the other nearby dwellings. This is likely to be the case even considering the proposed planting. Consequently, there would also be harm to visual openness.
7. Therefore, the proposed development would result in significant harm to openness. It would be contrary to the Framework and Policy CP3 of the CS in this regard.

Character and Appearance

Heritage

Listed Buildings

8. The appeal site formed part of an historic farmstead. There are records of buildings dating from the 17th century, some have been lost or destroyed by fire. Three buildings remain, which are grade II listed. These are the Oast House, Farmhouse (High Weald House) and Stable Barn. They are each individually listed due to their age and traditional appearances associated with the original farming enterprise. They are now occupied as separate dwellings.
9. Given their close association with the historic farm on this site, the surviving farmstead layout and surrounding open land makes a positive contribution to the appreciation of these properties' historic function and the evolution of the farming enterprise. As such, the appeal site makes an important contribution to the setting of these listed buildings with regards to its openness and its secondary relationship to this group of buildings. Whilst the farm use has since been lost, the farmhouse appearance of the listed building and the appearance of the Oast house and stable are nevertheless related to their traditional farmyard setting.
10. The development proposes the erection of three new dwellings and the Mill as a holiday let set around a courtyard. This would create a distinct and separate yard arrangement to the historic farmstead. This would harmfully undermine the significance of the original farmstead layout. Taking into account the

visibility of the proposed development previously referred to, this public and permanent harm would be considerable.

11. One of the dwellings is proposed to resemble the Old Cart Shed, and the others seek to replicate features of traditional rural buildings. However given the proposed clearly domestic features such as fenestration, formal gardens and car parking, this would be clearly different to the original buildings and this does not overcome the harm identified above.
12. The submissions also indicate that the proposals would include the restoration of a pond, tree planting and the reinstatement of an orchard on an area of land outside the site area, but within the appellant's ownership. This would restore traditional cultivation in the wider area. The existing surrounding open land preserves the open setting of the listed buildings. Nevertheless the proposed landscaping would return the land to planting associated with farming and therefore there would be a minor enhancement in this regard.

Mill

13. By 1920 the appeal site was no longer a working farm and was used as a tea house, ball room and commercial bakery. In 1928 a Smock Mill was erected on the site. It was comprised of parts of other Mills from elsewhere in the country. It fell into disrepair and was demolished in 1963, although parts of the brick base remain. It is listed in Kent County Council's Historic Environment Record.
14. Although its materials date from 1723, these have been reconstructed and moved from its original setting, furthermore a mill was not originally part of the historic farmstead in this location. Nevertheless, there is an element of historic significance, in that the structure is historic and the Mill in this location served as a local landmark, albeit briefly, as part of the evolution of this site. Its features of significance are those set out above although for the reasons already described its heritage significance is limited. As such I have considered this as a non designated heritage asset and the building therefore has a limited degree of heritage significance meriting consideration in planning decisions.
15. The proposed development would reinstate this Mill. It would be reconstructed in new materials, would not include the internal Mill features and would be used as residential accommodation. Albeit this would be a holiday let and therefore this would increase the number of people who would visit. Therefore, whilst its external appearance would be similar to that which previously existed on the site, its original use and internal features would be lost. As such the heritage benefits through its reconstruction would be modest.
16. Taking into account the significance of the asset, and the scale of the benefits that would accrue as a result of its rebuilding, there would be a modest heritage benefit in this regard.

Heritage Summary

17. There would be modest heritage benefits through the reconstruction of the Mill and a minor enhancement to the surrounding land is proposed. However, this would not outweigh the considerable degree of harm that would be caused to the setting of the listed buildings as a result of the proposed built form. Consequently, overall, the development would be harmful to the settings of the Grade II listed buildings. As such, in this regard, the proposed development would be contrary to Policy CP1 of the CS and SQ1 of the Managing

Development and Environment Development Plan Document (2010) (DPD). Together these require that development should protect, conserve and enhance the historical interest of an area and the quality of the historic environment.

18. Paragraph 202 of the Framework requires that I weigh this harm against the public benefits of the scheme, and I will return to this matter later in this decision.

Countryside

19. The appeal site is within the Hildenborough-Leigh Farmlands as set out in the Kent County Council Landscape Character Assessment (2004). This describes its characteristics as an open landscape with hedgerows and woodlands, farmland and with urban influences. It concludes that this area has very low sensitivity and poor condition.
20. The appeal site is grassland with a hedgerow alongside Stocks Green Road. It adjoins the converted traditional farm buildings described above and beyond this, a more modern development of houses. This group of buildings is surrounded with open green land within a wider countryside setting, albeit the elevated A21 road to the west provides an urban influence in this location. Although this land may not have a high landscape value, the open green nature of the land makes a positive contribution to the character of the surrounding countryside land.
21. The proposed development would introduce three substantial dwellings and a holiday let. These would be accessed via a private driveway leading from Stocks Green Road. Due to the appearance of the dwellings with clearly domestic fenestration and private rear gardens and parking areas this would appear as a clearly residential development, not as a farmyard. As such the appeal scheme would result in the domestication of this open countryside land and would result in substantial harm to its open countryside character.
22. As set out above, the proposals include orchard planting and reinstatement of a pond in the wider area. The reversion to the traditional agricultural character of this land would be an enhancement. However, given the existing positive contribution that the site makes to the countryside character, the benefits in this regard would be minor.
23. This part of Stocks Green Lane has hedges on both sides which contributes to its rural character. However, there are a number of openings along its length and this vegetation is not continuous. As such, the introduction of one additional opening in this location would not harmfully undermine the character and appearance of this road.
24. Whilst there would be a minor enhancement to the wider landscape, this would not outweigh the substantial harm to the countryside character of the appeal site as a result of its clearly evident domestication. Although the A21 prevents long views westwards, as set out above, the urbanising features of the development would be clearly visible and consequently this harm would be experienced.
25. As such the proposed development would be harmful to the countryside character and appearance of the area. This would be contrary to Policies CP1 and CP24 of the CS and, Policy SQ1 of the DPD. Together these seek that

development should respect the site and its surroundings, protect, conserve and enhance the character of the area and the quality of the countryside.

26. However, given my conclusions above, the development would be in accordance with Policy DC6 which, amongst other things, requires that development conserves the value of rural lanes.

Biodiversity

27. A Preliminary Ecological Appraisal has been submitted. This states, amongst other things, that an existing Oak Tree on the site may have potential for roosting bats. The submitted drawings do not show the location of the Oak Tree and therefore I am not satisfied that the proposed development would secure its retention. Consequently, there would be harm to biodiversity in this regard.
28. I am not provided with any detail of the existing biodiversity on the area proposed for orchard planting and pond reinstatement. Nor any specific detail as to the ecological enhancement measures proposed. Whilst the intention to enhance the neighbouring land is positive, there is a lack of certainty as to the effects to biodiversity in this regard. Consequently, I am not satisfied that these measures would outweigh the harm identified above.
29. Therefore the proposed development would have a harmful effect on biodiversity. As such it would be contrary to Policy CP1 of the CS and Policies SQ1 and NE3 of the DPD. Together these require that development should protect, conserve and enhance the biodiversity value of the area and the natural environment.

Other Considerations

Enabling Development

30. The erection of the dwellings are proposed as enabling development to reinstate the mill. The proposed development would also prevent the remains of the windmill from deteriorating further. However, I am not provided with evidence that the development is the minimum necessary to do this, and as such I am not persuaded that the appeal scheme would be the least harmful way to achieve this aim. Consequently, this does not justify the scale and extent of the harm that would result.
31. The proposed development would not be for an isolated home in the countryside. Therefore paragraph 80 of the Framework would not be relevant to this decision.

Other matters

32. The proposed development would result in the social and economic benefits associated with the creation of three new dwellings and rural tourism associated with a holiday let. Given the scale of the proposed development, these benefits would be modest. The homes would be 'low carbon', although in light of the lack of certainty as to the benefits in this regard, these would be minimal.
33. Planning permission was granted in 1997 for a windmill in Sandhurst (TW/96/01784/FULL). This location is somewhat distant from the site, and given its age it would have been considered under different development plan

policies. Consequently, these considerations are notably different to those before me now.

Heritage Balance

34. The Framework advises that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance and that any harm requires clear and convincing justification. In terms of the Framework the harm to the listed buildings would be less than substantial. Nevertheless, this is a matter of considerable weight and importance.
35. As set out above, overall the benefits that the development provides would be modest. On the other hand, having regard to my statutory duty I am required to have special regard to the desirability of preserving the setting of the Listed Buildings and I attribute considerable importance and weight to the harm identified in this regard. As such, the modest public benefits would not outweigh the unacceptable harm to the setting of the listed buildings.

Green Belt Balance

36. The Government attaches great importance to Green Belts. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt by reason of the proposed development's inappropriateness and effect on openness. Along with the harm to the setting of the Listed Buildings, the character and appearance of the area and biodiversity.
37. The considerations advanced by the appellant would result in modest benefits only. Therefore, the other considerations in this case, even when considered together, do not clearly outweigh the harm that I have identified.
38. The very special circumstances necessary to justify the development therefore do not exist. Consequently, the proposed development would conflict with paragraph 148 of the Framework and Policy CP3 of the CS the aims of which are set out above.

Planning Balance

39. The Council cannot demonstrate a 5 year supply of deliverable housing sites, therefore paragraph 11(d) of the Framework is engaged. However, as set out above, the application of policies relating to Green Belts and designated heritage assets provides clear reasons for refusing the development proposed, as set out in footnote 7. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

40. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR