



Appeal Decision

Site visit made on 3 October 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Appeal Ref: APP/U2235/W/23/3314820

Foxwood, Chalky Road, Stockbury, Kent ME9 7QR

- 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 Hadley Fry of Screeding Solutions Ltd. against the decision of Maidstone Borough Council.
 - The application Ref 22/503316/FULL, dated 4 July 2022, was refused by notice dated 12 September 2022.
 - The development is the change of use of residential curtilage to hardstanding for business and personal vehicles and detached double garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form confirms that the development has been completed. At the time of my site visit, I observed a stone surfaced hardstanding on the appeal site and a double garage, both of which appeared to match those shown on the submitted drawings, along with parked vans and trailers. Therefore, I have determined the appeal on the details shown on the submitted drawings and on the basis that the development has been carried out.
3. I am satisfied that assessing the appeal accordingly would cause no prejudice to any party. I have omitted the word "retrospective" from the description of development in the banner heading above as it is not an act of development under section 55 of The Town and Country Planning Act 1990.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area, with particular regard to the location within the Kent Downs Area of Outstanding Natural Beauty (AONB), and
 - the living conditions of nearby occupiers of residential properties, with particular regard to noise and disturbance.

Reasons

Character and appearance, including the AONB

5. The appeal site is land associated with a detached modern dwelling that has been surfaced with stone to create a hardstanding for the parking of the

business and personal vehicles of the occupiers. A detached double garage has also been erected on the site for the same purposes. The site is located in the countryside and is situated within the Kent Downs AONB.

6. The character and appearance of the area is rural and verdant, consisting of a sparsely distributed pattern of buildings and small groups of buildings set within a landscape of expansive open fields interspersed by blocks of woodland, on gently sloping land. The buildings in the area tend to occupy plots that are well landscaped with trees and hedgerows, and appeared generally secluded within the wider landscape. In these respects, the locality of the appeal site reflects the character and appearance of the AONB, which is described by the Kent Downs AONB Draft Management Plan 2014-2019, as mainly being designated for the dry valleys of the Kent Downs, particularly where they retain a downland character, and other qualities of note, including a pastoral scenery.
7. The large expanse of stone surfaced hardstanding, although permeable and free draining, is of a scale that exceeds that normally found at a residential property. The evidence suggests that before the hardstanding was laid, the appeal site was landscaped residential garden land, and therefore likely to have reflected the character and appearance of the area.
8. The hardstanding has a harsh and somewhat industrial appearance, which is emphasised by the several parked commercial vans and utilitarian trailers. As such, its appearance contrasts markedly with the attractively rural and verdant character and appearance of the area. In so doing, it has eroded the area's positive contribution to the landscape and scenic beauty in the AONB. I am required by Paragraph 176 of the National Planning Policy Framework (the Framework) to give great weight to conserving and enhancing landscape and scenic beauty in the AONB.
9. The trees and hedgerow plants growing along the roadside boundaries of the appeal site, which includes evergreen species, provides substantial screening of the appeal development in public views. Nonetheless, there is nothing that I have read or seen in the evidence that limits the application of the relevant planning policies referred to by the parties to developments that are only visible from a vantage point accessible to the public. Furthermore, there is no guarantee that this planting would remain in perpetuity and the landowner could well choose to remove it or thin it out.
10. The garage is a modestly sized flat roofed building of a simple appearance with timber walls and car-width garage doors. The garage's appearance is reflective of a domestic building and in isolation to the hardstanding, is in-keeping with pattern of development in the area. As such, it does not harm the character and appearance of the area, and it conserves the landscape and scenic beauty of the AONB.
11. The land appears to have been in agricultural use some years ago. However, I have very limited evidence to demonstrate that it benefits from a historic lawful commercial use for tractor storage and repairs. Therefore, I can give this assertion only very limited weight in determining this appeal.
12. The appellant has referred to their permitted development rights to construct a hardstanding on the land. However, the evidence before me does not demonstrate that the hardstanding the subject of this appeal could be retained as a permitted development. It is not for me in determining this s78 appeal to

make a formal determination on the lawfulness of any development. The appellant has the option to apply for a certificate of lawfulness of existing use or development under s191 of the Town and Country Planning Act 1990, should they so wish, and this process has its own right of appeal.

13. Even if I was to accept that the appellant could lawfully construct a hardstanding in a highly visible location between the front wall of the dwelling and the highway, then the appellant could do so regardless of the outcome of this appeal. Therefore, any harm arising from it would be in addition to the appeal development's harm and not instead of it. For these reasons, I give very limited weight to the appellant's evidence in these respects.
14. My attention is drawn to several businesses operating from properties in the locality of the appeal site, including a farm equipment supplier. However, I have limited details regarding the planning circumstances under which these businesses were established. Therefore, I am unable to reasonably draw any meaningful comparisons between them and the proposed development. As such, they are of limited relevance to my considerations in this appeal, which I have determined on its own merits and based on the evidence before me, and they do not alter my conclusion on this main issue.
15. For the reasons given above, I conclude that the development harms the character and appearance of the area, and its contribution to the landscape and scenic beauty of the Kent Downs AONB. As such, it is contrary to Policies SP17, DM1 and DM30 of the Maidstone Borough Local Plan (Adopted 25 October 2017) (the MBLP), which require, amongst others, that development in the countryside is of high-quality design, will not harm the character and appearance of the area, and is responsive to areas of landscape value.

Living conditions

16. The appellant keeps some 5 work vans and concrete pumping equipment on the appeal site. Employees drive to the site to collect the vans at the beginning of the working day and return them at the end of the day, before leaving the site in their own vehicles. At my site visit I observed several vans parked on the site. Attached to one of the vans was what appeared to be a concrete pump trailer, and another pump trailer was parked up.
17. The appeal site has a capacity to store many more vehicles and pumping equipment than the number stated by the appellant, and it appears to have the capacity to accommodate the storage of building materials (such as aggregates and concrete), that interested parties suggest has occurred in the past. However, I have limited evidence regarding these occurrences and for the purposes of my assessment, I have determined the appeal based on the appellant's description of the how the use is operating.
18. Noise will be generated by the vehicles driven to and from the appeal site and manoeuvred within it, along with likely noise from the loading of pumping equipment into the vans and the connection of pumping trailers to the vans. These activities are likely to occur in the mornings and evenings as vehicles leave the site and return to it from construction sites. The character of the noise involves the running of vehicle engines and the sudden sharp noise from vehicle doors being shut and equipment being loaded into the vehicles.

19. The activities associated with the use as described by the appellant are likely to be audible given the relatively low background noise levels I observed at my visit. However, these activities are focussed on land some distance away from the closest neighbouring property which is located on the opposite side of the appellant's dwellinghouse, to the south. Given the number and type of vehicles involved, and the relationship between the appeal site and the nearest dwelling, I am not persuaded that the level, character and duration of the noise generated by the appeal development harms the living conditions of the neighbouring occupiers.
20. Vehicles associated with the use are likely to pass-by several residential properties on their journeys to and from the appeal site. The road network in the locality of the appeal site that connects it with the higher order A roads and motorway network, consists mainly of narrow rural roads. These roads serve a scattered pattern of residential properties, many of which appeared to be set back some distance from the roads. Given the type and modest number of vehicle movements associated with the use described by the appellant, the noise effects from those vehicles being driven past nearby properties does not harm the living conditions of the occupiers of the residential properties in the wider locality.
21. Based on the information before me, I conclude that the appeal development does not harm the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance. As such, it complies with Policy DM1 of the MBLP, insofar as it requires development to respect the amenities of occupiers of neighbouring properties by ensuring that development does not result in, or is exposed to, excessive noise, activity or vehicular movements.
22. Policy DM30 of the MBLP, is quoted in the Council's second reason for refusal. However, as this policy relates to other matters, including character and appearance, it is not determinative on this main issue.

Other Matters

23. I acknowledge that Paragraph 85 of the Framework supports the achievement of a prosperous rural economy and advises that sites to meet local business needs may have to be found beyond existing settlements. However, this is subject to the qualification that business development in the countryside is sensitive to its surroundings.
24. Even if I was to accept that the appeal development makes use of previously developed land (PDL), which is another objective of the Framework, I find that the reuse of a relatively small area of PDL, together with the Framework's support for a prosperous rural economy, would not outweigh the harm to the character and appearance of the area, including to the AONB.
25. There is very limited evidence to justify the appellant's assertion of a shortage of suitable and cost-effective sites to securely accommodate the use and its high value equipment, which is asserted to be at risk of theft. As such I afford it very limited weight in favour of the proposal.

Conclusion

26. The development does not cause harm to the living conditions of nearby residential occupiers. However, for the reasons given above it has led to

material harm in relation to the character and appearance of the area, and the landscape and scenic beauty of the Kent Downs AONB. These adverse impacts bring the development into conflict with the development plan as a whole. There are no material considerations of sufficient weight to outweigh this finding and indicate a decision should be made other than in accordance with the development plan. Having considered all matters raised, I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR