
Appeal Decision

Site visit made on 12 December 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/M2270/W/22/3311569

Land South of Marle Place Road, Brenchley, Tonbridge TN12 7HS

- 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 Richard Bridger against the decision of Tunbridge Wells Borough Council.
 - The application Ref 22/01142/FULL, dated 8 April 2022, was refused by notice dated 26 July 2022.
The development proposed is described as 'erection of agricultural/commercial building to be utilised for ice cream manufacturing in connection with soft fruit and soft fruit farm diversification.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans dated 14 June 2022 were submitted to the Council while the application was under consideration. These adjusted the proposed siting of the building and provided further details of access and parking arrangements. A Travel Plan dated October 2022 was provided with the appeal, setting out additional evidence relating to travel to and from the proposed development, including alternatives to travel by car. Although this evidence was not part of the application when it was considered by the Council, both the Council and interested parties have had the opportunity to respond to it as part of the appeal process. I have had regard to the amended plans and the Travel Plan when considering the appeal.
3. In November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes'. Therefore, where relevant in this decision, I have referred to the High Weald National Landscape (HWNL). However, this does not change the legal status of this Area of Outstanding Natural Beauty, relevant local or national policy, or statutory requirements for consideration of the effect of proposed development on the designated landscape.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

5. My attention has been drawn to policies in the emerging Tunbridge Wells Borough Local Plan (ELP), although these were not referred to in the reasons for refusal. The ELP was submitted to the Secretary of State in November 2021 and its Examination in Public remains ongoing. Further public consultation is planned, and further public hearings and modifications may be required. Therefore, there is little certainty that the emerging policies will be adopted in their current form, and I have given them limited weight.

Main Issues

6. The main issues are:
- the effect of the proposed development on the character and appearance of the area, with particular regard to its effect on the HWNL,
 - whether the proposed development is a suitable location for employment, having regard to the Council's spatial strategy and its accessibility by means other than the private car, and
 - whether any harm would be outweighed by other material considerations, including the effect on the rural economy.

Reasons

Character and Appearance

7. The appeal site is a parcel of agricultural land used for fruit growing as part of a larger agricultural holding. It slopes downwards from Marle Place Road, although the land closest to the road is largely level. The main farm buildings are at Chillwood Farm, around one mile to the north.
8. There were no existing buildings on the site at the time of my site visit. However, prior approval has been granted for an agricultural storage building close to the site access. Hardstanding has been laid in this area, in a position consistent with the approved building. The appellant's evidence states that implementation of this approved agricultural development is still intended, and I have not been presented with any substantive evidence to the contrary.
9. The proposed building would be of similar design and scale to the approved agricultural storage building. It would be set further back on the site, in a position which would be partly screened by the approved building, if implemented. There are also scattered dwellings and other farm buildings along Marle Place Road and the surrounding lanes. These include some fairly substantial disused agricultural buildings opposite the appeal site, where I have been informed that planning permission has been granted for a residential redevelopment.
10. Notwithstanding this existing and proposed nearby development, the proposed building would be a substantial new structure on a site where there is no established farmstead. It would be on the highest part of the site, with the land falling away towards a public right of way to the south. From the right of way, the building would be prominently located at the crest of the slope, beyond the orchard. The orchard trees are not particularly large and are laid out in well-defined rows, enabling unobstructed views up the slope, towards the site of the proposed building. From this perspective, it would be a substantial and intrusive new built element in the landscape. It would be significantly more

prominent than either the approved, but as yet unbuilt, agricultural building or the disused farm buildings to the north, which in both cases are set further back on level ground and not so conspicuous from the lower lying areas.

11. Roadside hedgerows provide some screening from Marle Place Road. However, the proposed building would not be hidden from view, particularly in the winter months when vegetation is sparse. The proposal would therefore introduce significantly increased building bulk in views along the lane, particularly from the west where there are no nearby buildings to obstruct views into the site.
12. Fruit farming is a well-established activity in the HWNL, where the landscape is characterised by features including small-scale fields and woodlands and a network of narrow lanes enclosed by hedgerows. It follows that agricultural buildings are also an established element in the landscape, although in many cases they are located within established farmsteads, rather than in more isolated or visually exposed locations.
13. However, while the proposed building would have a very similar design and appearance to a modern agricultural building, it would have a different function, for the manufacture of ice cream. Therefore, the proposal would generate additional built development within the rural landscape, over and above the more direct requirements of agricultural activities.
14. As well as doubling the number of buildings on the site, the proposed industrial use would generate additional activity around the building, notably staff and delivery vehicle movements and parking. While use of fruit grown on the farm would reduce the need to transport some ingredients, others would need to be delivered from external suppliers, and the finished product would need to be transported to customers. Any established pattern of agricultural vehicle movements is of limited relevance, since the commercial use would be in addition to, not instead of, agricultural use of the site.
15. The site is accessed via a network of rural lanes, of restricted width and often tightly enclosed between roadside hedgerows. At the time of my site visit the area appeared quiet and tranquil. While the appellant's evidence details a relatively modest level of anticipated vehicle movements, they would include deliveries by heavy goods vehicle a few times per week, in addition to more numerous daily trips by staff and delivery vans. Given the peaceful nature of the surroundings, I am not convinced that this level of commercial activity could be absorbed within the narrow rural lanes without harmful disruption to the tranquil qualities of the HWNL.
16. Regulating the hours of operation would be of limited benefit, since there would still be a harmful effect on the HWNL during the working day, affecting those using the public right of way network and rural lanes for recreational purposes. I am also mindful that the proposed occupier is described as a successful and expanding business. In that context, the level of traffic likely to be associated with the use could not reasonably or effectively be limited by planning conditions.
17. While I have noted the absence of any technical objection on highway safety grounds, this is a different matter from the effect on the peaceful rural surroundings.
18. For the reasons given above, I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would neither

conserve nor enhance the HWNL, being harmful to landscape and scenic beauty due to both the additional built development and the additional commercial activity associated with it. These are matters to which I have attached great weight, in accordance with paragraph 182 of the Framework.

19. For similar reasons, the proposal would conflict with relevant requirements in Policies LBD1, EN1 and EN25 of the Tunbridge Wells Borough Local Plan 2006 (TWLP) and Core Policies 4, 5 and 14 of the Tunbridge Wells Borough Core Strategy Development Plan Document 2010 (Core Strategy). These policies, amongst other things require that development in the rural areas is not harmful to landscape character and the character of rural lanes and that the landscape of the HWNL is conserved and enhanced.

Location and Accessibility

20. Policies 1, 7 and 14 of the Core Strategy collectively direct new employment development towards previously developed land within settlements or conversion of existing buildings in the rural areas. Core Policy 14 is supportive in principle of employment uses related to the land, but it does not explicitly support the erection of new employment buildings in the rural areas. This Policy also places development within the rural areas within the context of a general policy of restraint in order to maintain landscape character, further articulated in Core Policy 4.
21. In the TWLP, Policy LBD1 does not preclude built development outside settlements. However, it requires interpretation in the context of Policies EN1 and EN25. The latter policy prioritises conversion or reuse of existing buildings and limits new buildings where there would be harm to landscape character. However, these policies do not include any requirements regarding accessibility by alternative modes of transport.
22. Policies BE2 and BE4 of the Brenchley and Matfield Parish Neighbourhood Development Plan 2022 are broadly supportive of new employment development and farm diversification. However, that support does not extend to proposals which would be harmful to the rural environment or the HWNL.
23. Paragraphs 88 and 89 in the Framework are generally supportive of development to support a prosperous rural economy, which paragraph 88 recognises may include new buildings subject to design considerations. While paragraph 89 recognises that development to meet local business needs may have to take place in locations not well served by public transport, this is subject to a wider consideration of any other harm arising, including whether development is sensitive to its surroundings. The Framework also encourages the use of sites which are well-related to existing settlements where opportunities exist and says that any opportunities to make a site more sustainable should be taken.
24. In this case, the appeal site is well outside the nearest villages and towns. The nearest rail services are some distance away and the nearest bus stops are not within realistic walking distance. The rural roads are generally narrow, without pavements or street lighting. While some staff may have the option of cycling to work using the National Cycle Network route, or walking via public rights of way, it is less likely that they would choose to do so routinely, particularly in inclement weather or throughout the winter months.

25. The Travel Plan sets out various measures to encourage staff to travel by means other than single occupancy motor vehicles. However, while monitoring arrangements are proposed, there is no mechanism by which staff could be obliged to travel by alternative modes. Neither would any such mechanism be reasonable or realistically enforceable, given the inherent constraints associated with the rural location. Furthermore, this would not mitigate the need for delivery movements by van and lorry.
26. I recognise that there are similar transport challenges at the proposed occupier's existing site. There would also be some benefit to specific employees who live more locally to the appeal site and would not have to travel so far. Nevertheless, given the harm I have already identified to the character and appearance of the area, and the lack of realistic opportunity to improve the scope for travel by alternative modes, the location does not find clear support from paragraph 89 in the Framework. It would also conflict with Core Policies 1, 4, 7 and 14 of the Core Strategy, as outlined above and with Core Policy 5 of the Core Strategy, which includes a requirement that development should create accessible environments.
27. I therefore conclude that the proposed development would not be a suitable location for employment, having regard to the Council's spatial strategy and its accessibility by means other than the private car.

Rural Economy and Other Material Considerations

28. As well as being located within an existing agricultural holding, it is intended that the occupiers of the proposed building, Taywell Ice Creams, would have an ongoing relationship with the wider farm business. Evidence has been provided that rental income and the supply of fruit to Taywell would provide improved financial security for Chillwood Farm. That being the case, the proposal would support the expansion and diversification of these two specific businesses, as well as supporting relevant suppliers and retail outlets in the wider rural economy.
29. Taywell produce over 60 ice cream flavours and there is no guarantee that the required dairy products or the full range of flavour ingredients would be produced and supplied locally. As such, while I recognise that the supply of soft fruit grown on the farm would reduce food miles for this particular product, I have given this only modest weight in the context of the full range of ingredients and products which would require transportation. In addition, there is no apparent barrier to Chillwood Farm diversifying into soft fruit production for supply to Taywell at its existing location, so this element of the additional income is not clearly dependent on the proposed development taking place.
30. I acknowledge that the provision of enhanced facilities would support an apparently successful and growing ice cream making business. This would consequently be of economic benefit, including through the employment of local people and supporting trade with local suppliers and retail outlets. However, since Taywell has a substantial customer base throughout London and the South East, including major national retailers, the economic benefits would not be entirely focussed within the rural economy.
31. While ice cream and other food producers are not infrequently located within farm holdings, as a consequence of farm diversification, that does not mean that their location on alternative employment sites is inherently unsuitable. In

both cases, much depends on the particular circumstances of the site and the other commercial activities nearby.

32. In this case, Taywell's current location is a consequence of the company having outgrown its initial premises on a farm holding. The proposed development would allow for further growth and investment in new equipment. I note that the lease on the existing premises is due to expire, although the evidence also acknowledges that relatively short-term leases on commercial premises are commonplace, and the evidence does not demonstrate that it could not be renewed.
33. Some degree of difficulty is reported with maintaining a suitable environment for food production at the existing site, where there are other industrial and commercial uses. I recognise that the appeal site would provide a more self-contained location, without any such conflict. This would be beneficial in terms of providing an environment which allows for confidence in future investment and growth. However, it is less clear why the site is regarded as a more secure option since it lacks the natural surveillance available in a more populated area or alongside other occupiers.
34. Poor water pressure is also mentioned as a disadvantage of the existing site. However, I have given this limited weight since, noting observations made by interested parties living locally, there is no substantive evidence that the appeal site would be an improvement from this point of view.
35. Evidence has been presented that a search of alternative commercial sites has not yet yielded another suitable location. However, this evidence reflects a snapshot in time and, even at that point, a relatively large number of potential options were found to be available. While I appreciate that there are a range of considerations for Taywell, including cost, unit size, lease terms and proximity to other commercial activities, I am not persuaded that there is no prospect of securing a suitable alternative site within a reasonable timescale and without the same adverse consequences for the HWNL.

Planning Balance

36. I recognise that the proposal would be beneficial to the rural economy, by supporting the diversification and expansion of Chillwood Farm and Taywell Ice Creams, as well as any other local suppliers and retail outlets. However, for the reasons given above, the benefits to the rural economy are not entirely dependent on development at this particular site. With that in mind, I have given the benefits to the rural economy moderate weight.
37. Although there are dwellings nearby, the Council has not alleged any specific harm to the living conditions of neighbouring occupiers, in terms of noise, disturbance or odour. No harm to heritage assets has been drawn to my attention. Based on the evidence before me, I have no reason to reach a different view on these matters. However, these are neutral factors which weigh neither for nor against the proposal.
38. Set against the benefits to the rural economy would be the harm to the landscape and scenic beauty of the HWNL, which carries great weight. There would also be additional harm associated with the site's poor accessibility by means other than the private car, to which I have given moderate weight, having taken account of the provisions of Framework paragraph 89.

39. Based on the circumstances of this particular case, therefore, the harm arising from the proposal would not be outweighed by other material considerations, including the effect on the rural economy.
40. Having reached that conclusion, the harm to the HWNL represents a clear reason for refusal, based on the application of policies that protect areas of particular importance, as listed in Footnote 7 to Framework Paragraph 11. Therefore, the proposal does not benefit from the presumption in favour of sustainable development, and planning permission should not be granted.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR