



Appeal Decision

Site visit made on 1 February 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 FEBRUARY 2024

Appeal Ref: APP/U2235/W/23/3324829

Windy Bottom, Sittingbourne Road, Detling, Kent ME14 3ES

- 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 Oliver Gray (Fastlay Services Ltd) against the decision of Maidstone Borough Council.
 - The application Ref 23/501591/FULL, dated 27 March 2023, was refused by notice dated 26 May 2023.
 - The development proposed is described as "Retrospective change of use of site to contractor depot and erection of new workshop and office buildings together with removal of unauthorised hardstanding, hard and soft landscaping and ecological enhancements".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw during my visit that the site is in use as a contractor depot. However, the other elements of the proposed development did not appear to have started. I have therefore considered the appeal on the basis that the change of use of the site has taken place, but that the proposed erection of new workshop and office buildings, removal of hardstanding, landscaping and ecological enhancements have not. The Council considered the application in the same way.
3. The appellant suggests the site has been used historically for storage of vehicles and materials. It is open to the appellant to apply to have the lawful use of the site determined under sections 191 or 192 of the Town and Country Planning Act 1990. Any such application would be unaffected by my determination of this appeal. I have decided the appeal on its merits.
4. The National Planning Policy Framework (the Framework) was revised in December 2023, during the course of this appeal. However, other than paragraph and footnote numbering, the wording on Areas of Outstanding Natural Beauty (AONB) has not changed. Therefore, I am satisfied no party would be disadvantaged by not having an opportunity to comment on the revised Framework.
5. On 22 November 2023, all designated AONBs in England became 'National Landscapes'. However, the legal designation and policy status of AONBs are unchanged, so the considerations relevant to this appeal are unaffected.
6. I understand the Council is undertaking a review of its Local Plan. I am not aware of the exact stage this has reached, the extent of unresolved objections

or whether the emerging Local Plan will be considered as consistent with the Framework. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

Main Issue

7. The main issue is the effect of the proposal on the character and appearance of the surrounding countryside, including the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (KD AONB).

Reasons

8. The appeal site is located close to a small cluster of dwellings adjacent to the A249. It comprises a large area of hardstanding, two relatively small single-storey buildings with flat roofs and some isolated trees. There is a dense area of ancient woodland immediately behind the site, which is part of a larger wood bisected by the HS1 railway. This line runs along one side of the site, down a steep, vegetated embankment. On the other side of the site are small fields within Thurnham Vale.
9. Paragraph 182 of the Framework states great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. I have had regard to the KD AONB Management Plan (KDMP), the Maidstone Landscape Character Assessment 2012 as amended in 2013 (MLCA), and the Maidstone Landscape Capacity Study: Sensitivity Assessment 2015 (MLCS). The KD AONB comprises undulating chalk downs with a diverse topography of valleys and plateaux. The Hollingbourne Scarp and Vale is a narrow area within this, comprising a south-west facing scarp slope overlooking the clay vale and rolling landscape of mixed farmland below. The appeal site is part of gently undulating Thurnham Vale at the foot of this scarp, which is characterised by small, irregularly shaped fields, woodland blocks, and occasional villages.
10. From the evidence before me, a significant proportion of the area of the site now occupied by hardstanding was previously covered by grass and other vegetation. This gave it a predominantly natural appearance, well integrated with the surrounding landscape and adjacent woodland. The removal of vegetation and introduction of extensive hardstanding have therefore substantially changed the character of the site and severed it from its natural surroundings. Activities associated with the contractor depot, such as the coming and going of vehicles and storage of materials, have had a further urbanising effect at odds with the character and appearance of the surrounding rural countryside. This has caused considerable harm to the landscape and scenic beauty of the AONB, notwithstanding the presence of roads and rail nearby and whether or not the whole site can be seen in public views.
11. The proposed workshop would have a considerably larger footprint and higher ridge height than the building it would replace, which would have a further urbanising effect. I acknowledge that the existing buildings on the site are in poor condition. Nevertheless, given the size of the proposed workshop it would not result in an improved appearance, even if materials sympathetic to the local vernacular were secured via condition. Moreover, whilst I recognise the proposed hipped roof would somewhat allay the perception of bulk and mass, this would not fully address the harm resulting from the larger footprint and height of the building, irrespective of the roof forms of nearby dwellings.

12. The proposed removal of part of the hardstanding and its replacement by a buffer of soft landscaping and trees next to the ancient woodland would only partially mitigate the harm that has already occurred. This is because a substantial area of hardstanding would remain, as would the activity of the contractor's depot associated with it. Moreover, even if the proposed native planting would in time help rectify harm to biodiversity that resulted from installation of the hardstanding, and even if this were secured by condition, its extent would not be sufficient to mitigate the detrimental effect of the site's severance, visually, from its surroundings.
13. I note the appellant's willingness to accept conditions controlling hours of operation and the extent and location of external storage. Any such conditions would only control activity within the boundary of the site. Be that as it may, to reduce activity to a level sufficient to mitigate the harm I have found, such controls would place a substantial restriction on any future business wishing to operate from the site, so would not meet the test of reasonableness. As regards boundary treatments, perimeter fencing is only one factor in the harm identified, so a reduction in height and/or removal of permitted development rights for 2m high fencing via condition would not be sufficient to overcome it.
14. Therefore, bearing in mind the great weight I am required to give to the conservation and enhancement of the KD AONB, I am not satisfied the proposed conditions would make the proposal acceptable.
15. I have considered the planning history of the neighbouring properties brought to my attention¹. The height of the chalet bungalow in the side garden of Surrazil was considered in the context of its siting between existing dwellings, which is different from the context of the proposed workshop. At Lillywood, although the site bordered open countryside, the proposal involved extensions to an existing building that were found to be subordinate in scale and partly off-set by the demolition of another building. Moreover, both developments are residential so of a different nature and intensity to the appeal proposal. Consequently, the circumstances in those cases are not sufficiently closely related to those before me to be directly comparable. In any event, I have considered this appeal on its own merits.
16. For the above reasons, I conclude the change of use has had, and the other elements of the proposal would have, a harmful effect on the character and appearance of the surrounding countryside, including the landscape and scenic beauty of the KD AONB. This is contrary to Policies SS1, SP17, DM1 and DM30 of the Maidstone Borough Local Plan 2017 (MLP). Together, these Policies require great weight to be given to the conservation and enhancement of the KD AONB; and seek high-quality design that responds positively to, and where possible enhances, the natural character of the area and landscape features.
17. It is also contrary to the KDMP, MLCA and MLCS, which identify Thurnham Vale as an area of high landscape sensitivity and seek to conserve the gently undulating landform of the scarp foot and its rural setting, and to conserve and enhance the woodland blocks. It is also contrary to paragraph 182 of the Framework.

¹ Permission references 19/503709/FULL and 17/501003/FULL

Other Matters

18. I recognise the appellant has removed waste from the site and acknowledge his intention to be a good steward in future. Nevertheless, there is little evidence before me to substantiate the suggestion of a persistent historic problem with fly tipping, or to demonstrate that the proposed development would be the only way to address such a problem.
19. I note the proposal has taken account of a previous refused permission for the site², including in relation to design of the workshop building and effects on the ancient woodland. In the latter respect, I acknowledge the appellant's willingness to accept conditions securing a Construction Environmental Management Plan and controls over external lighting, were the appeal to be allowed. Nevertheless, I am required to consider this appeal on its own merits based on the evidence before me. Therefore, the planning history of the proposal does not change my finding on the main issue.
20. The Council is satisfied with effects on neighbouring occupiers, subject to a condition to mitigate levels of noise and disturbance. On the evidence before me, I see no reason to disagree. I also note the Highway Authority has raised no concern. However, an absence of harm in these respects is a neutral factor.

Conclusion

21. I have found that the development conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR

² Application reference 21/503695