
Appeal Decision

Site visit made on 7 December 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/X2220/W/23/3317631

Abbotscliff House, New Dover Road, Capel Le Ferne, CT18 7HZ

- 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 S Lucas against the decision of Dover District Council.
 - The application Ref 22/01485, dated 10 November 2022, was refused by notice dated 11 January 2023.
 - The development proposed is the continued use of land for the stationing of a caravan for use as short-stay holiday let, retention of adjacent deck, single storey building (shower/wc), together with associated parking, drainage, and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr S Lucas against Dover District Council. This application is the subject of a separate decision.

Preliminary Matters

3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been materially amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers in this decision.
4. The appeal property is in the Kent Downs Area of Outstanding Natural Beauty (AONB). On 22 November 2023 all designated AONBs in England and Wales became known as National Landscapes. Accordingly, the former AONB is referred to as a National Landscape (NL) in this decision.
5. I have amended the description of development to remove words that do not constitute development.

Main Issues

6. The main issues are:
 - whether the site is a suitable location for the development with regard to the spatial strategy for locating development, reducing reliance on the private car, and the effect on the character and appearance of the area, including the Kent Downs National Landscape and Heritage Coast; and

- whether the site is a suitable location for the development with regard to coastal change.

Reasons

Suitable Location

7. The development plan seeks to direct development to within settlement boundaries and rural settlement confines unless specifically justified by other development plan policies or there is a functional need for the development to be in the countryside. It is not in dispute that this site is in the countryside.
8. The fact the land is within the appellant's ownership and is close to his dwelling does not amount to a functional requirement for the location of the development. Similarly, the fact that the site would be attractive to tourists and would allow visitors to enjoy the NL and Heritage Coast (HC) does not amount to a functional requirement as that enjoyment could be achieved without necessarily being accommodated within those areas.
9. The NL is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 places a duty on me to have regard to these purposes in this decision. This is recognised in the Framework at paragraph 182 where it is advised that great weight should be given to conserving and enhancing landscape and scenic beauty. It is also within the Heritage Coast where paragraph 184 of the Framework confirms decisions should be consistent with the special character of the area and its conservation. This paragraph acknowledges that, as in this case, sites can be covered by more than one designation.
10. The site lies within the Folkestone Cliffs and The Warren Local Character Area. Its Landscape Character Assessment highlights that the beauty of this landscape lies in its scale, drama and the sense of wilderness it offers. It also identifies it as an austere clifftop landscape of open cliff top fields. It is identified as being particularly vulnerable to development which affects its skylines, open character, sense of naturalness and remoteness.
11. The appeal site is somewhat atypical in that, despite its similarities to the surrounding terrain, it is associated with Abbotscliff House. This is a large dwelling set in expansive grounds which forms part of a small cluster of buildings set high on the clifftop. The scale and isolated position of these buildings provides a sharp contrast with their undeveloped surrounds. This reinforces the drama and sense of wilderness of the local character area.
12. Both the caravan and the toilet block sit adjacent to a landscaped bund, and behind the deck and outdoor kitchen which are situated adjacent to the edge of the cliff where it drops to the coastal path, and then drops to the railway line and the shore. The landscaped bund, deck and outdoor kitchen benefit from a certificate of lawfulness¹. Notwithstanding, the proximity of the site to the cliff edge makes it a particularly sensitive location.
13. Further development diminishes the open wilderness character of the area. It adds to the lawful development to create a cluster of built form which would be at odds with the sense of naturalness which is important to the local character area. This would be exacerbated by the metallic finish of the caravan which is

¹ DOV/22/01266

wholly at odds with the natural and austere character of the area. It is likely that this would result in additional activity and lighting beyond that associated with the existing dwelling.

14. Paragraph 182 of the Framework is clear that the scale and extent of development within the NL should be limited. The caravan and toilet block are not readily visible apart from in glimpsed long views from the west due to their small scale and positions adjacent to the landscaped bund and set back from the cliff edge relative to the outdoor kitchen and decking. However, the purpose of landscaping should be to integrate development into its setting. It should not be a reason to permit otherwise unacceptable development simply because it can be hidden.
15. There are significant detractors in the landscape which are readily visible from the appeal site and lie within the NL and HC. However, this would not justify allowing further development which would be unacceptable when assessed against current policy.
16. The site is well located for access to the coastal path and designated cycle routes which link to surrounding settlements and attractions. There are also bus stops within reasonable proximity on Folkestone Road. It is also only a short distance from Capel le Ferne which contains services and facilities. Holiday accommodation gives rise to different travel patterns and demands than permanent residences. I am also mindful of the advice in the Framework at paragraph 109 that options to maximise sustainable transport will vary between urban and rural areas. Consequently, I consider there would be options for visitors to use modes of transport other than the private car in this location.
17. The appeal site would not be a suitable location for the development because of the conflict with the spatial strategy for locating development and the harmful effect on the character and appearance of the area, including the Kent Downs National Landscape and Heritage Coast. It would therefore be contrary to Dover District Local Development Framework Core Strategy (February 2010) (CS) Policies CP1, DM1, DM3, DM15 and DM16 which, inter alia, seek to protect landscape character, the character and appearance of the countryside and direct development to the most sustainable locations and Dover District Local Plan (2002) (LP) Saved Policy CO5 which seeks to protect the Heritage Coast. It would also be contrary to emerging Draft Dover District Local Plan to 2040 (eLP) Policies PM1 and NE2 which, inter alia, seek to conserve and enhance the natural beauty of the Kent Downs NL and requires development to demonstrate an understanding of the local landscape context. There would also be conflict with the advice in paragraph 135 of the Framework which requires development to be sympathetic to the surrounding landscape setting and paragraphs 180, 182 and 184 which require planning decisions to maintain the character of the undeveloped coast and attach great weight to conserving and enhancing landscape and scenic beauty.

Coastal Change

18. The Council's statement refers to an error with the GIS mapping in relation to the Coastal Change Management Area (CCMA) designation. However, it does not specify what this error is, or what the boundary for the CCMA should be. I have been directed to Figure 2.2 of the Land Allocations Local Plan (2015) however this is broadly indicative and does not provide any certainty as to the

boundary of the CCMA. Consequently, I find the appellant's argument that the site is not within a defined CCMA more compelling.

19. However, the eLP does identify the site as falling within the CCMA as it proposes to define it, based on more recent evidence. Paragraph 48 of the Framework indicates that weight may be given to relevant policies in emerging plans, but the weight depends on the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the Framework. The eLP was examined during November and December 2023 and so is at an advanced stage of preparation. However, there were unresolved objections to eLP Policy CC7, which take opposing views.
20. It is for the examination of the eLP to establish if it is necessary for there to be a CCMA and if the Council's proposed policy is sound. It may be that further amendments to eLP Policy CC7 will be required. I therefore attach limited weight to this policy.
21. As the site does not fall within the CCMA as designated at present, it is not necessary for me to assess the proposal against paragraph 178 of the Framework as it only applies to development within a CCMA. The site would therefore be a suitable location for the development with regard to coastal change as it does not lie within a CCMA as identified in the development plan.

Other Matters

22. It may be that it would be possible for the appellant to retain the caravan on the site for purposes incidental to the enjoyment of Abbotscliff House, and I have no reason to dispute that that there would be a real prospect of this occurring. However, the activity that would be associated with the caravan would then be that which would occur in any event from the occupation of Abbotscliff House. Furthermore, there is a fundamental difference between allowing enjoyment of the existing residential property and changing the character of the area to include more commercial uses.
23. The Council has a strategy to promote tourism as a means of economic growth and I have no reason to doubt that tourism makes a positive contribution to the local economy. This is also acknowledged in national strategies. I also accept that the appeal site is an attractive location for tourist accommodation and would be attractive to those seeking a healthy lifestyle through walking and cycling on the surrounding routes. Biodiversity enhancements could be secured by condition.
24. The economic benefits of the caravan to the wider economy have not been quantified. Given the limited amount of accommodation provided by the caravan, the economic benefits are likely to be limited.
25. There would not be an adverse effect on the coastal path. Car parking for the caravan would be where parking exists for Abbotscliff House. The occupation of the caravan could be restricted to holiday accommodation only by condition.
26. No harm to the adjacent Folkestone Warren Site of Special Scientific Interest has been identified, due to the measures taken to provide foul and surface water drainage. There would not be an adverse effect on the safe and efficient operation of the public highway, nor would there be harm to the living conditions of neighbouring occupiers. However, the absence of harm in respect of these matters would be neutral. Decisions taken by the Council elsewhere

would not change my assessment of the effects of this development in this specific location.

Planning Balance

27. It is common ground between the parties that the policies most relevant for determining the appeal are out of date. However, the harm to the NL and HC means that there are policies in the Framework that provide a clear reason for refusing the development. Therefore, under paragraph 11d)i of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

28. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to suggest the decision should be taken other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR