



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: 26.02.2024

Appeal Ref: APP/U2235/W/23/3322359

Land north of Timbers, Boarley Lane, Sandling, Maidstone ME14 3DE

- 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 Mrs Wright against the decision of Maidstone Borough Council.
 - The application Ref 22/505064/FULL, dated 21 October 2022, was refused by notice dated 23 December 2022.
 - The development proposed is part change of use; conversion and extension to existing barn to create new residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. I invited the parties to consider whether the revised Framework had relevance to this appeal and have taken account of the comments received in my decision.
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (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.

Main Issues

5. The main issues are the effect of the proposal on:
 - the character and appearance of the surrounding countryside, including the setting of the Kent Downs AONB; and
 - trees and biodiversity, including the measures necessary to avoid, mitigate or compensate for any negative effects.

Reasons

Character and appearance

6. The appeal site comprises a barn, stables, yard and sand-school. It is separated from the nearest dwellings in Sandling by a large pond, pasture and woodland. Sporadic trees form a perimeter to the site, beyond which is more open land. The overall character of the site and its surroundings is understated and rural, despite its proximity to a settlement. A public footpath ascends along the woodland edge to provide extensive views across the pasture, the appeal site and surrounding countryside. This includes clear views of the broad vale and scarp beyond the M20, which are within the Kent Downs AONB (KD AONB).
7. According to the Maidstone Landscape Character Assessment 2012 as amended in 2013 (MLCA) and the Maidstone Landscape Character Study: Sensitivity Assessment 2015 (MLCS), Sandling Vale's distinctive elements include woodland, parkland and the ragstone buildings and mill ponds at Sandling. The MLCA seeks to improve this landscape.
8. Policy SP17 of the Maidstone Borough Local Plan 2017 (MLP) addresses development in the countryside and states, amongst other things, that proposals should not harm the character and appearance of the area or have a significant adverse impact on the setting of the KD AONB. The supporting text to Policy SP17 describes the setting of the AONB as sensitive to change. The provisions of Policy SP17 add to but are consistent with those in paragraphs 83 and 84 of the Framework.
9. Paragraph 182 of the Framework states that development within the setting of AONBs should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. The KD AONB Management Plan describes the setting of the AONB as the land outside the designated area which is visible from the AONB and from which the AONB can be seen.
10. The proposed extension of the barn would create a single, wide building of uniform height where presently there is a modest stable that is separate and subordinate to the barn. This larger footprint and built form with extensive full height glazing on two elevations would have a distinctly domestic appearance that would be obtrusive and jarring in its context. Domestic infrastructure, such as a front-facing garden fence between the house and remaining stable block, formally laid out parking spaces, cycle store and bins, would exacerbate this incongruous appearance. The overall effect would detract from the rural landscape and character surrounding the site.
11. This would in turn detrimentally affect views of the KD AONB from several viewpoints, including the public footpath noted above. I acknowledge the topography of the site and surrounding vegetation would largely conceal the development from some perspectives within Sandling, including along parts of Boarley Lane. Nevertheless, given its visibility in views towards the vale and scarp, there would be a significant adverse impact on the setting of the KD AONB. The proximity of the M20 and nearby industrial/urban development do not justify further harm from incremental change to this sensitive landscape.
12. I recognise the development would be on a part of the site where built form already exists, with little change in area of hardstanding; and that it would not add to the height of the barn. However, these factors are not sufficient to

outweigh the detrimental effect caused by the scale and appearance of the proposed house and associated infrastructure.

13. I acknowledge the proposal would reuse an existing building and that options to convert other structures have been explored. Whilst these aspects of the scheme would receive some support from Policy DM31 of the MLP, the proposal's harm to landscape character means it would not satisfy that Policy overall, whether or not the barn is of sound construction.
14. Additional soft landscaping is proposed, which could be secured by condition were the appeal to be allowed. Whilst this would soften aspects of the proposal, it would not conceal the increase in built form and overall residential appearance of the dwelling. Consequently, it would not be sufficient to mitigate the harm I have found.
15. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the surrounding countryside, including the setting of the KD AONB. This is contrary to Policies SS1, SP17, DM1, DM5, DM30 and DM31 of the MLP. Together, these Policies require high-quality design that responds positively to, and where possible enhances, the natural character of the area and landscape features; reflects the character and appearance of individual localities; and, in the case of residential development on brownfield sites in the countryside, results in a significant environmental improvement. It is also contrary to the MLCA and MLCS and paragraph 182 of the Framework.

Trees and biodiversity

16. According to the appellant's Arboricultural Report dated October 2022 (AR), the proposal would require one tree to be felled and several others to undergo crown lifting and reduction. In addition, the extension would be built close to and within the root protection area of Poplar trees behind the site, which are of moderate quality. On the evidence before me, I am satisfied the risk of harm to trees during construction could be mitigated through appropriate protection measures, which could be secured by condition were the appeal to be allowed. However, the AR's recommendations on post-development pressures are not sufficiently detailed for me to be certain that the risk of longer-term harm to trees would be adequately mitigated.
17. The appellant's Preliminary Ecological Appraisal dated July 2022 (PEA) states the general area provides good bat foraging habitat. Nevertheless, the PEA does not include an individual examination of trees affected by the proposal and instead recommends an assessment prior to felling.
18. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."
19. Bearing in mind the development's potential effect on trees, the absence of an individual tree survey means the presence of bats, which are a protected

species, and the extent that they may be affected by the proposed development have not yet been established. No exceptional circumstances have been demonstrated such that the required survey of individual trees could be left to coverage by a planning condition. Therefore, I am not satisfied the requirements of Circular 06/2005 have been met. For the same reasons, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm to biodiversity, as required by paragraph 186 of the Framework.

20. Whilst I note the correspondence between the Council and the appellant about potential extensions of time, I can only assess the current proposal based on the information before me. This information does not include more recent updates of the AR or PEA referred to above.
21. For the above reasons, I conclude the proposal does not adequately demonstrate the effect on trees and biodiversity, including the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to Policy DM3 of the MLP, which requires development to protect and enhance the natural environment, including trees with significant amenity value and sites of importance for biodiversity. It is also contrary to paragraph 186 of the Framework.

Other Matters

22. The appeal site is in the setting of The Old Mill House and The Old Mill, which are Grade II listed buildings. The former fronts onto Boarley Lane and the latter is set slightly further back. Their significance is derived in part from their historic use as a group of buildings associated with a water mill. The mill ponds and watercourses along Boarley Lane are therefore a key part of their setting and contribute to their significance as heritage assets. The appeal site is separated from the pond nearest to it by relatively dense vegetation. Consequently, there is little inter-visibility between the appeal site and the listed buildings, or the mill ponds or section of Boarley Lane nearest to them. Therefore, I find the setting of the listed buildings would be preserved and there would be no harm to their significance as heritage assets.
23. There would be an economic benefit from construction and future occupiers' use of local services and facilities, which would support economic growth, in accordance with the Framework's economic objective. The proposal would also support the Framework's objective to increase the supply of homes. However, as only one dwelling is proposed and the Council can demonstrate a five-year housing land supply, which the appellant does not dispute, these benefits do not outweigh the harm I have found.
24. I have had regard to the desire of the appellant to create a home on family-owned land, to manage this land, and to live near to the horses and business. However, I am mindful that the harm identified would be permanent, so it is not outweighed by the appellant's particular circumstances. There is little evidence before me to substantiate concerns about the security and viability of the remaining stables and sand-school or to demonstrate how the proposal would improve these matters. Nor is there sufficient evidence to persuade me that vehicle movements would be reduced as a result of the development.
25. The Council has raised no concern with the site's access to public transport and services and has found the proposal would not be an isolated dwelling in the

countryside. It is also satisfied in relation to flood risk, highway safety, access, parking, living conditions for future occupiers and the effects of the proposal on the living conditions of neighbouring occupiers. On the evidence before me, I see no reason to disagree with these conclusions. However, an absence of harm in these regards is a neutral factor. Moreover, the suitability of the location in principle does not justify the introduction of development that is harmful for other reasons. Energy efficiency is covered by other regulatory regimes, so would also not weigh in favour of the scheme.

26. Whilst I note the pre-application advice provided by the Council, I have determined this appeal on its own merits based on the evidence before me.

Conclusion

27. I have found the proposal 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