



Appeal Decision

Site visit made on 23 January 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/J2210/W/23/3327878

Little Bank Farm, Garlinge Green, Chilham CT4 5RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Cooper against the decision of Canterbury City Council.
 - The application Ref is CA/22/02353.
 - The development proposed is change of use of part of agricultural land to keeping of horses and erection of agricultural building on agricultural land.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against Canterbury City Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the banner heading above, I have used the description of the proposed development as it appeared on the application form. The application drawings also indicate a proposed pond, which was treated by the Council as forming part of the development and I have considered the appeal accordingly. Horses are being kept on the site, so I am considering this aspect of the appeal retrospectively.
4. The Council has confirmed that the reference to Policy EMP15 in the reason for refusal should have read EMP13, which is the relevant policy in relation to proposed agricultural buildings. The appellant has provided evidence in relation to both policies, and I have had regard to Policy EMP13 where relevant.
5. In November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became 'National Landscapes'. Therefore, where relevant in this decision, I have referred to the Kent Downs National Landscape (KDNL). However, this does not change the legal status of this AONB, relevant local or national policy, or statutory requirements for consideration of the effect of proposed development on the designated landscape.
6. On 26 December 2023, an amendment was made to Section 85 of the Countryside and Rights of Way Act 2000¹. This now requires that a public body '*must seek to further*' the purpose of conserving and enhancing natural beauty in an AONB. The Council's position on the proposal's effect on the KDNL is clear and the appellant has commented on this matter. Therefore, it has not been

¹ Levelling-up and Regeneration Act 2023 c. 55 Pt 12 s.245(6)(a)

necessary to seek further submissions on this change and no relevant party would be prejudiced by this approach.

7. 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.

Main Issue

8. The main issue is whether the appeal site is an appropriate location for the proposed agricultural building, having regard to national and local planning policies in respect of conserving and enhancing the landscape and scenic beauty of the KDNL and economic need.

Reasons

Landscape and Scenic Beauty

9. The KDNL is designated for its landscape and scenic beauty, which particularly derives from the scarp slope and dry valleys of the Kent Downs. Its special characteristics and qualities include its dramatic landform and views, with relevant features including dry valleys such as the one where the appeal site is located, especially where they have a downland character. There is some built development, including agricultural buildings and scattered farmsteads within what is a farmed landscape.
10. The appeal site is on steeply sloped land forming one side of a wide, open valley. There are expansive views across the downland landscape from the top of the slope, and from Public Footpath CB468, which runs diagonally across the field immediately to the west of the appeal site. This steeper land is largely devoid of buildings, although there is a cluster of school buildings near the appeal site, on the lower-lying land. The looser knit collection of dwellings and farm buildings at Garlinge Green are some distance away. Existing buildings are largely focussed within lower-lying or more gently undulating areas.
11. The proposed barn would be in an elevated position and would have a substantial overall height and utilitarian appearance, consistent with its purpose for agricultural storage. The land has been excavated, establishing a series of terraces, cut into the slope and the building would be on one of these. Nevertheless, the upper part of the building would project well above the adjacent hedgerow planting. It would be prominent in wider views from the surrounding lanes and particularly from the adjacent footpath, which would provide uninterrupted views at close proximity of the upper part of the barn.
12. While the scale of the proposed barn is relatively modest by agricultural standards, the development would nevertheless introduce a sizable built structure, in an elevated and relatively isolated position compared to existing built development. The barn would intrude into views down and along the scarp slope, undermining its uninterrupted character. As such, it would fail to preserve or enhance the dramatic landform of the surrounding downland landscape which can currently be appreciated in these views.

13. The detailed design, including use of dark green profiled sheeting, responds to design guidance, and would give the barn a relatively muted appearance. However, that would not overcome the visual intrusion resulting from the building's scale and elevated siting. Further, the short linear hedges and tree belts proposed to landscape the building would be somewhat incongruous with existing vegetation and field patterns and would not be an effective screen.
14. My attention has been drawn to other buildings at a similar elevation in the surrounding area. However, these are not sited in a similarly isolated and exposed position on the side of the valley and therefore have a different relationship with the surrounding landscape.
15. For the reasons given above, I conclude that the proposed agricultural building would be visually intrusive by virtue of its scale and siting, interrupting the landform and views which are characteristic of the KDNL. As such, it would neither conserve nor enhance landscape and scenic beauty within the KDNL. These are matters to which I have attached great weight, in accordance with paragraph 182 of the Framework and the statutory duty outlined above.

Economic Need

16. The appeal site is part of Woodlands Farm, a free-range poultry farm which has been established for over 30 years. In the appellant's evidence, Woodlands Farm is described as a major supplier of quality free range eggs across the country, as well as being a full bio zone and designated egg-packing centre within the avian notifiable disease controlled area. Chickens are housed across four sites, with the Woodlands Farm site itself being around 4 miles from the appeal site.
17. The appeal site was purchased relatively recently to support this agricultural business and the appellant explains that there is limited opportunity to purchase land closer to the rest of the holding. According to the Planning, Design and Access Statement, the land was previously used for production of silage for sale, but the appellant has now switched to production of a hay crop on the majority of the site. This is intended for use as pecking fodder within the poultry operation, with any spare bales being available for the appellant's own horses and for sale.
18. The proposed agricultural building would provide indoor, dry storage for around 1900 bales of hay, cropped from the appeal site, together with secure storage for hay-making machinery. In their Statement of Case, the Council accepted that the proposed size of the building would reflect those uses.
19. There would be advantages to this well-established agricultural business from the production of pecking fodder on land within the appellant's control. To that extent, an economic need for erection of a barn has been demonstrated. Since the hay crop would be produced on site, I accept that elements of the proposed use, notably the machinery storage, could not realistically be located elsewhere. Notwithstanding the Council's comments on this point, there is also no clear evidence that a suitable building is available at Woodlands Farm or that there is space to provide one. However, there is less evidence in relation to potential hay storage capacity on the other sites where poultry are housed, and I am therefore not entirely persuaded that the whole hay crop requires storage at this particular location.

20. In addition, the appellant has not provided any substantive response to the Council's comment that a plethora of other methods are available to prevent feather pecking. Since an alternative approach may not necessitate development at the proposed scale within the KDNL, this also weighs against the suitability of the site for meeting the economic need.

Planning Balance

21. Paragraphs 88 and 89 in the Framework are generally supportive of development to support a prosperous rural economy. Paragraph 88 is specifically supportive of the development and diversification of agricultural and land-based rural businesses and recognises that development to support the rural economy may require new buildings. However, this is subject to consideration of their design and appearance. In a similar vein, Policy EMP13 of the CDLP is generally supportive of new agricultural development, where there is a demonstrable economic need, subject to the effect on the landscape, particularly within the KDNL.
22. As set out above, there is evidence of economic need, since the development would support the agricultural business at Woodlands Farm. However, the weight which should be attached to those benefits is moderated by the limited evidence that the economic success of the business, and its contribution to the wider rural economy, is reliant on production and storage of pecking fodder on this particular site.
23. Environmental advantages of the shift to a hay crop are highlighted, including reduced use of plastic wrap and planting of a meadow mix which is beneficial for wildlife. There could also be ecological benefits from additional hedgerow planting, although the appellant's evidence indicates an intention to undertake such planting for its own sake. As such, the environmental benefits are not entirely dependent on the erection of the proposed barn.
24. Having concluded that neither the economic need nor the biodiversity benefits are clearly dependent on erection of the barn in this particular location, I have given these positive aspects of the proposal moderate weight. Set against that would be the harm to the landscape and scenic beauty of the KDNL, to which I have attached great weight, in accordance with paragraph 182 of the Framework and the provisions of Section 85 of the Countryside and Rights of Way Act 2000.
25. That being the case, the harm arising from the proposed agricultural building would not be outweighed by economic need or other benefits. I therefore conclude that the appeal site is not an appropriate location for the proposed agricultural building, having regard to national and local planning policies in respect of conserving and enhancing the landscape and scenic beauty of the KDNL and economic need.
26. The development would conflict with relevant requirements in Policies DBE3, EMP13 and LB1 of the Canterbury District Local Plan (CDLP) 2017. These policies, amongst other things, give high priority to conservation and enhancement of natural beauty and require that new agricultural buildings avoid detrimental impact upon landscape interests and the KDNL.
27. The reason for refusal also alleges conflict with Policy LB2 of the CDLP, which relates to development in Areas of High Landscape Value (AHLV). These include

the North Downs AMLV, where the appeal site is also located. The reason for refusal refers specifically to the scenic beauty of the KDNL and does not mention the AMLV. Nevertheless, given that I have concluded that there would be harm to landscape character, there would also be conflict with Policy LB2, which requires consideration of the effect of development on landscape character and encourages development that would support, rather than harm, landscape character within the AMLV.

Other Matters

28. Support has been expressed for the appellant's approach to managing the site, notably the introduction of meadow planting and additional hedgerows. This has been described as setting a positive example to children at the nearby school, which has ecology at the heart of its educational ethos. I have likewise recognised that there are environmental benefits to the way the land is managed. However, as set out above, these are outweighed by the harm to the landscape in this case.
29. The school is housed in buildings at Perry Court which include a Grade II listed building dating from the 18th century. The agricultural fields around Perry Court contribute to its setting. However, the listed building is over 200m from the location of the proposed development and the intervening open land within the school grounds would not be affected by the proposed development. Neither the Council nor any interested party has alleged that the development would have any adverse effect on the listed building. Having considered the development and visited the site, I concur that the appeal proposal would preserve the listed building, its setting and significance as a designated heritage asset.
30. Neither the Council nor any other party has alleged that the creation of a pond in the position shown would be harmful to landscape or scenic beauty. Nor has the Council alleged that the keeping of horses on part of the site is harmful to the KDNL. However, concerns have been raised by the KDNL Unit that there may have been unauthorised development related to equestrian activities and that the character of the site has been significantly altered from its previous state as an undeveloped arable field.
31. It is not the function of this appeal to consider the lawfulness of existing structures present on the site. The equestrian element of the appeal proposal is limited to the change of use of land. The land used for keeping of horses is on the lower part of the site, close to the lane which leads to the school buildings. This area is relatively well screened by the existing hedgerows along the lane and the established field boundaries. It is also next to the main approach to the school, and the school buildings and car parking areas are visible across the intervening field. As such, this lower part of the site has a more direct relationship with existing built development and its use for keeping horses does not intrude into the more exposed valley sides.
32. However, although the area used for keeping horses and the site of the pond do not overlap with the proposed position of the barn, the application drawings do not clearly and unambiguously define these elements of the proposal as separate entities. The Location Plan includes both a red line boundary and a dotted line, without clearly identifying which is the equestrian boundary. Elsewhere, the equestrian boundary is only partially shown. Details of the pond

are included on only one drawing, which is labelled 'Proposed New Barn' and also includes details of the barn and associated landscaping.

33. That being the case, while I have considered whether a split decision could be issued in this case, the use of land for keeping horses and the pond are not clearly severable from the proposed barn and it would not be feasible to impose suitable conditions to ensure that these elements of the proposal would conserve and enhance scenic beauty, based on the application drawings. Therefore, having concluded that the appeal site is not an appropriate location for the proposed agricultural building, it follows that the appeal as a whole should be dismissed.

Conclusion

34. For the reasons given above the appeal should be dismissed.

Jane Smith

INSPECTOR