



Appeal Decision

Site visit made on 6 March 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th April 2024

Appeal Ref: APP/E2205/W/23/3323854

Land to the east of Burnt Oak Farm Bungalow, Squids Gate Lane, Challock, Kent TN25 4DP (Easting: 598313, Northing: 150183)

- 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 S Rowlinson against the decision of Ashford Borough Council.
 - The application Ref is 22/00724/AS.
 - The development proposed is the demolition of 2no. Nissen huts and conversion of existing former poultry buildings to provide 2no. residential dwellings with access, parking, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 2no. Nissen huts and conversion of existing former poultry buildings to provide 2no. residential dwellings with access, parking, landscaping and associated works at Land to the east of Burnt Oak Farm Bungalow, Squids Gate Lane, Challock, Kent TN25 4DP (Easting: 598313, Northing: 150183) in accordance with the terms of the application, Ref 22/00724/AS, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the site address principally from the appellant's appeal form, adding the road name, county and post code for clarity and completeness.
3. In November 2023 all designated Areas of Outstanding Natural Beauty became National Landscapes and so will be referred to as such in this decision.

Main Issues

4. The main issues are whether or not the proposed development would accord with local policies and national guidance regarding the location of housing; and the effect of the proposed development on the character and appearance of the area, with particular regard to its immediate setting and the Kent Downs National Landscape.

Reasons

Policy Context

5. Policy HOU5 of the Ashford Borough Local Plan 2019 (ABLP) addresses 'residential windfall development in the countryside'. The first part of the policy allows for residential proposals 'adjoining or close to the existing built up confines' of listed settlements. The second part of the policy concerns residential development 'elsewhere' in the countryside. This limits such

development to 5 specified exceptions, including the reuse of redundant buildings that leads to an enhancement of the immediate setting.

6. The policy is broadly consistent with the National Planning Policy Framework (the Framework). The Framework encourages villages to grow and thrive but also allows homes in the countryside in certain circumstances. In this regard and of particular relevance to this appeal is that the Framework specifically identifies developments that re-use redundant or disused buildings and enhance its immediate setting.
7. Furthermore, the site lies within the Kent Downs National Landscape. Both Policy HOU5 and Policy ENV3b of the ABLP state that the Council shall have regard to conserving and enhancing the natural beauty of the Kent Downs National Landscape. This is consistent with the Framework which advises that great weight should be given to conserving and enhancing the landscape and scenic beauty of such areas.
8. In further support of the Council's overall strategic approach to housing and development in the countryside more generally, Policies SP1 and SP2 of the ABLP seek to ensure development conserves and enhances the rural areas and natural environment. Policy SP6 of the ABLP promotes high quality design and lists design criteria that need to be responded to positively in order to achieve this objective.

Assessment

9. The nearest settlements to the appeal site are Challock and Charing. Both are listed within the first part of Policy HOU5 as being suitable for windfall housing sites. However, given the distances involved, the appeal site could not reasonably be regarded as being 'adjoining or close' to either of them. As a result, the proposal falls to be considered as being located 'elsewhere' and could only be allowed if it met one of the 5 exceptions set out in the second part of the policy.
10. The proposal is for the reuse of redundant buildings, which is one of the exceptions listed in the second part of Policy HOU5. There does not appear to be any dispute between the main parties that the buildings are redundant and are capable of being reused and I have no reason to come to different conclusions in these respects.
11. The key policy consideration in this case is therefore whether there would be enhancement to the immediate setting of the building and the wider National Landscape.
12. The existing buildings are former single storey poultry sheds with shallow pitched roofs. They are linear in shape and set within an area of hardstanding and grass. There is an existing vehicular access onto Squids Gate Lane, which would be retained and upgraded. Two Nissen huts would be removed as part of the proposal.
13. The surrounding area comprises undulating field parcels that are connected and interspersed with wooded areas. Within the immediate vicinity and adjoining the site there are a small number of dwellings. Many of them are visible from Canterbury Road and Squids Gate Lane and they provide pockets of residential use and general domestication within the wider landscape.

14. Instances of buildings no longer being used for agricultural purposes is not uncommon in countryside locations and an unkempt character is not unexpected. Therefore, neither the buildings nor the site as a whole particularly detract from the appearance of the area, particularly as the buildings are relatively discreet and are well screened by the boundary planting. Overall, the site has a neutral impact on the wider area.
15. An inherent element of reusing redundant buildings, especially for residential use, is that the buildings themselves are likely to have a more domestic appearance than at present. A further consequence is that it is likely to generate a level of activity and comings and goings which together with the delineation of curtilages, defined areas of car parking and associated paraphernalia would all contribute to raising the profile of the site. In this case, the resulting changes could be accommodated into the receiving environment without causing undue harm. However, they would be a natural consequence of the changes proposed in this case and do not necessarily represent an enhancement of the immediate setting or wider landscape.
16. In support of the proposal, it is suggested that a significant enhancement would be the removal of the Nissen huts from the site. This would no doubt be of benefit to future occupiers, but they are relatively small and discretely positioned utilitarian buildings that are not prominent within the wider landscape, albeit they can be seen from Squids Gate Lane.
17. Removing them would represent a very limited enhancement of the immediate setting but would be neutral on the wider area. However, any benefit arising would be more than off-set by the introduction of two car barns. The offer to omit the car barns from the scheme does not alter the Council's overall stance but in my opinion, it would remove a disbenefit of the scheme.
18. There would be the opportunity for some small improvements to the site's landscaping and provision of trees. These are limited but would be likely to represent some small enhancement to the immediate setting and could be said to conserve and enhance the natural beauty of the Kent Downs National Landscape.
19. From the evidence before me, it appears that the provision of two bat boxes would take the form of mitigation rather than enhancement. Nevertheless, it appears that there are opportunities for some ecological enhancement of the site which could be controlled through conditions.

Conclusion

20. Whilst I have not found there to be the scale of enhancement suggested by the appellant, the policies do not require a particular level or scale of improvement. Within the context of each case, it seems to me that any enhancement needs to be material and more than just a token offering.
21. In this case, there would be a small enhancement to the immediate setting of the buildings through the removal of the Nissen huts. There would be some further modest enhancements to the site's boundary planting, which would also have some wider ecological and landscape enhancement.
22. Whilst these may be a natural consequence of the proposal and something future occupiers are likely to desire, as opposed to having been specifically incorporated into the development to address the policy requirements, they are

nevertheless factors that weigh in favour of the proposal. The omission of the car barns removes a negative aspect of the scheme.

23. I therefore find the matter to be very finely balanced, but in this instance the enhancements are sufficient to just tip matters in favour of the development.
24. Accordingly, the proposal would not conflict with Policies SP1, SP2, SP6, ENV3b and HOU5 of ABLP, insofar as it would be an appropriate reuse of a redundant building; conserve and enhance the landscape and scenic beauty of the Kent Downs National Landscape; enhance the immediate setting and thus not adversely affect the character and appearance of the area.
25. In reaching this conclusion, I have had regard to national guidance as to the location of housing and I have given great weight to the conservation and enhancement of the landscape and scenic beauty of the National Landscape. I am satisfied that the development complies with the Framework in these regards.

Other Matters

26. The site is adjacent to some existing residential properties. Unit 1 is positioned close to the boundary with Old Burnt Oak House. However, the height of the building, the boundary fencing, the internal layout and use of obscure glazing and fixed windows below a certain height would avoid overlooking and disturbance to this neighbour. Unit 2 is sufficiently far from the site boundaries that openings on its elevations would not cause a loss of privacy to neighbours.
27. The provision of new dwellings and gardens close to existing properties will change the environment and outlook for the existing residents. However, I am also mindful that the buildings exist and so already exert some effect on neighbours in terms of their presence. Overall, there is nothing to suggest that the changes that would result from the proposal would cause material harm to the living conditions of existing residents.
28. Whilst other neighbouring properties are on individual plots, the arrangement and layout of the appeal site would not appear unduly cramped or so out of keeping with the prevailing environment as to appear unduly jarring or harmful.
29. The site is within the countryside and so some wildlife activity on or across the site would be expected. The proposal is supported by a Preliminary Ecological Assessment and Bat Emergence Survey Report and there is no substantive evidence before me to indicate there would be harm to wildlife if the reports' recommendations are followed.
30. Given the site's location, it does not benefit from certain facilities/amenities such as a footpath, high-speed internet connection, public transport connections. Consequently, planning policies generally seek to minimise development in such locations, but certain exceptions are permitted, if, as is the case here, particular criteria have been met.

Conditions

31. In addition to the standard time limit, a condition specifying the approved plans is required in the interests of certainty. This includes the amended site plan of

May 2023. This omits the car barns which do not therefore form part of the development hereby permitted.

32. To ensure the existing poultry units have a suitable visual effect the details of the external materials to be used need to be agreed prior to work commencing on them.
33. The site was previously used for poultry and the land no doubt accommodated vehicles and other machinery from time to time. There is a risk of the land being contaminated and the ground works that are proposed would have the potential to disturb any contamination. A condition to address this matter is therefore necessary.
34. There are a number of measures related to the implementation of ecological and biodiversity measures that necessarily need to be controlled by condition to ensure the enhancements are forthcoming. Similarly, landscaping and tree protection details need to be submitted to ensure the associated enhancements are achieved.
35. In order for the scheme to function as intended, it is necessary for details to be agreed with the Council for matters such as cycle parking, bin storage, boundary treatment, the obscure glazing and fixing of certain windows, sewage and drainage schemes.
36. As the decision only just tips in favour of the development as currently proposed, it is reasonable and necessary for any further alterations, extensions, outbuildings etc to be controlled by the Council. Permitted development rights are therefore withdrawn.
37. Some of the above need to be pre-commencement conditions. The appellant has provided their written agreement where necessary.

Conclusion

38. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, including the Framework, I conclude that the appeal should be allowed subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan - DHA/16604/01
Proposed Site Layout Plan - DHA/16604/11B (May 2023)
Plot 1 - Proposed Plans and Elevations - DHA/16604/12
Plot 2 - Proposed Plans and Elevations - DHA/16604/13
Fellgrove Bat Emergence Survey Report August 2022
Fellgrove Preliminary Ecological Assessment Survey Report February 2022
Fellgrove Arboricultural Survey & Impact Assessment Report February 2022
3. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
4. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i. a 'native species only' landscape planting scheme;
 - ii. means of enclosure, boundary treatments and any retaining structures;
 - iii. vehicle parking area and courtyard;
 - iv. other pedestrian access and patio areas;
 - v. hard surfacing materials;
 - vi. refuse/recycling storage;
 - vii. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

5. Any trees or plants comprised in the approved details of landscaping which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No works shall commence on the existing poultry units until details of the materials to be used in the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
7. From the commencement of works (including site clearance), all mitigation measures for bats will be implemented in accordance with the details contained in section 5 of the Bat Emergence Survey Report (Fellgrove August 2022), unless otherwise varied by a Natural England licence.
8. Within six months of works commencing, details of how the development will enhance biodiversity (including but not limited to those measures set out in the Preliminary Ecological Assessment Survey Report (Fellgrove February 2022; and the native species only landscape plan required by condition 4) shall be submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in accordance with an agreed implementation programme and thereafter retained.
9. All tree works and tree protection measures shall be undertaken in accordance with the Arboricultural Survey and Impact Assessment Report (Fellgrove February 2022). The protective fencing shall be erected in accordance with the approved details from the commencement of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority.
10. No dwelling hereby permitted shall be occupied until a scheme for the provision of facilities to enable the charging of electric vehicles to serve the development (including a timetable for implementation) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
11. No dwelling hereby permitted shall be occupied until bicycle parking details have been submitted to and agreed in writing with the local planning authority. The approved details shall be fully implemented prior to the occupation of each dwelling and shall thereafter be kept available for the parking of bicycles.
12. No dwelling hereby permitted shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

13. No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and,
 - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
14. The dwelling on Plot 1 shall not be occupied until the windows on the north elevation (including rooflights) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
15. No dwelling hereby permitted shall be occupied until a lighting design plan for biodiversity has been submitted to, and approved in writing by, the local planning authority. The plan will show the type and location of external lighting, demonstrating that areas to be lit will not adversely impact biodiversity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development falling within Schedule 2, Part 1, Classes A, AA, B, C, D and E of that Order shall be carried out to the dwellings hereby permitted without the grant of further specific planning permission from the local planning authority.
17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the dwellings hereby permitted.

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