



Appeal Decision

Site visit made on 26 June 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/E2205/W/23/3333998

Hurst Villa, Hurst Lane, Charing TN27 0BH

- 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 Susan Pointer against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/1452.
 - The development proposed is the change of use of agricultural land to residential land and the stationing on the land of two static caravans for ancillary use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Having visited the site, I observed that the caravans were in-situ. Therefore, the development applied for has, in part, commenced. I have determined the appeal on this basis.
3. I have used the Council's description of development as this more accurately describes the proposal before me.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the surrounding area; and
 - the effect of the development on biodiversity and protected species.

Reasons

Character and appearance

5. The appeal site comprises a parcel of land which, in part, accommodates a group of buildings known collectively as Hurst Villa. Despite some scattered buildings, the surrounding area is generally formed of open fields and mature landscaping. These features contribute to a strong rural and verdant character.
6. The existing caravans are partially visible from the surrounding area, over and between gaps in landscaping. They are more readily visible from Hurst Lane, and contribute to the creation of an extended domestic setting in this location, beyond the established collection of buildings formed of Hurst Villa, Little Hurstfield and Hall Cottages. The development is incongruous and erodes the rural character of the site and its surrounding area. Moreover, the proposed extension of the residential boundary into existing agricultural land would have

- a harmful urbanising effect on the surrounding area. This area would, in all likelihood, feature paraphernalia typical of a domestic setting.
7. That the caravans are subservient in scale to the more principal buildings along Hurst Lane, and that they would share facilities and a driveway, is not sufficient to overcome the harm that has been identified. Similarly, that neighbouring plots vary in scale and layout is not reason to automatically accept development where harm has been identified.
 8. The proposed landscaping is noted. However, this would take some time to reach sufficient maturity so as to mitigate the visual impact of the development. In any case, planting and boundary features, even when mature, cannot be relied on in perpetuity to give the same level of screening.
 9. Overall, I conclude that the development causes harm to the character and appearance of the surrounding area, contrary to the relevant provisions of Policy ENV3a of the Ashford Local Plan (LP, 2019). This policy, in summary and amongst other things, seeks to ensure that proposals in the borough demonstrate particular regard to the pattern and composition of field boundaries, historic landscape features and landscape character. This is in a similar vein to the objectives of the National Planning Policy Framework (the Framework) insofar as the character and beauty of the countryside is concerned.

Biodiversity and protected species

10. The appeal site lies in a rural area, near to mature landscaping and established buildings. There is a statutory duty on me to have regard to the conservation of biodiversity.
11. The appellant provided no ecological surveys in support of the application. In the absence of such surveys, and on the basis of the information before me, I cannot be certain whether protected species are present or the extent to which they may be affected.
12. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required. In this regard, paragraph 186 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. That no specialist consultees objected on this basis does not change my conclusion.
13. I therefore cannot conclude that the proposal would not adversely affect protected species. The proposal would therefore conflict with LP Policy ENV1, which, amongst other things, seeks that proposals that conserve or enhance biodiversity will be supported. This includes the need to safeguard features of nature conservation interest. This is in a similar vein to the Framework insofar as the protection and enhancement of biodiversity is concerned.
14. Even were I to find matters relating to biodiversity and protected species acceptable, this would not overcome or outweigh the harm identified in respect of character and appearance.

Other Matters

15. I do not doubt the appellant's argued objectives of enhancing biodiversity on the site. However, this is not wholly reliant on the scheme before me and does not lead me to an alternative conclusion on the main issues.
16. I am provided with evidence setting out the appellant's personal circumstances and that the siting of the caravans on the land was necessary to support the accommodation of the appellant's family.
17. I have had regard to Article 8 of the Human Rights Act 1988 as the dismissal of this appeal may lead to the removal of the caravans from the appeal site. This has the potential to impact on the housing needs of the appellant's family, who I understand live at the site. However, I consider interference with the rights of the appellant would be in accordance with the law and in pursuance of a well-established and legitimate aim of managing development in the interests of character and appearance.
18. I have no doubt that the appellant's family have faced difficult circumstances in the events leading to this appeal, and in the appellant's desire to retain the caravans on the site. However, I have been presented with no substantive evidence that demonstrates that no other form of accommodation would be obtainable to the occupants of the caravans, that other options have been fully explored or that the occupants would otherwise become homeless. Moreover, I have no evidence to demonstrate that occupants are subject to specific requirements with regard to accommodation. Therefore, I can attach only limited weight to the appellant's personal circumstances. Accordingly, I conclude that dismissing the appeal would be necessary and proportionate action.

Conclusion

19. I have had regard to the personal circumstances of the appellant, including the potential consequences of the appeal being dismissed in relation to the Human Rights Act 1988. Nevertheless, the development plan and Framework are clear that development must protect the intrinsic character and beauty of the countryside. As explained above, I have identified substantial harm in those respects. I conclude that the interface with the human rights of the appellant is proportionate and necessary.
20. Overall, the proposal would conflict with the development plan when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

A Price

INSPECTOR