



Appeal Decision

Site visit made on 13 August 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/G2245/W/23/3331339

Land East of Mussenden Lane, Kent, Horton Kirby DA3 8AH

- 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 Ms Denise Andrews against the decision of Sevenoaks District Council.
 - The application Ref 22/03195/FUL, dated 17 November 2022, was refused by notice dated 11 August 2023.
 - The development proposed is the erection of 2 x barns for animal housing with hardstanding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. However, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these reforms and their responses have been taken into account, where received.
3. I have taken the description of development from the Council's Decision Notice as this is a more succinct and accurate description than that provided in the application form.

Main Issues

4. The main issues are: whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; the effect of the proposal on the character and appearance of the area; and the effect of the proposal on highway safety.

Reasons

Whether the proposal would be inappropriate development

5. The appeal site is a parcel of land off Mussenden Lane, in use at the time of my visit for keeping of goats and sheep, along with shipping containers, and water and food stores. It is among neighbouring plots in use for keeping horses and static caravans, in an area with a predominantly rural feel set within the Green Belt.
6. The Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the

Green Belt and should not be approved except in very special circumstances. This is subject to exceptions, including at paragraph 154(a) buildings for agriculture and forestry.

7. Agriculture is defined in section 336 of the Town and Country Planning Act 1990 (the Act) as including: *'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes'*.
8. At the time of my visit the site was being used for the keeping of grazing sheep and goats, with the appellant providing a County Parish Holding reference for such purposes. The application form states that the appellant intends to coincide the rescued existence of these animals alongside breeding of new stock. The proposal would be used for shelter and storage in connection with this, including the storage of equipment for maintaining the land. Its size has been informed by various guidelines, such that it would be relative to the number of livestock kept at the site.
9. The Council has concerns that these animals would not be for a purpose relating to farming of land or for the production of food, wool, etc. However, this alone would not cause the proposal to fail to meet the definition of agriculture. The definition at s336 of the Act is not exhaustive, but includes examples of agricultural activity. In any event the appellant references production of small amounts of wool, which would increase as a result of the proposal. Together with references to breeding and keeping of livestock and use of land for grazing I am satisfied on the information before me and based on my observations on site that the proposal would be connected with agricultural activity.
10. I note concerns raised by interested parties that the proposal would be converted to residential dwellings. However, that is not the scheme before me and I must assess the scheme that has been applied for, being two barns. Overall, while I acknowledge that there is limited detail on the precise details of the proposed buildings, there is nothing substantive before me, or viewed on site, to suggest that these would be anything other than buildings for agriculture.
11. For the reasons given, the proposal would not be inappropriate development in the Green Belt and would comply with the provisions of the Framework in this regard. Given my findings, there is no need for me to assess Green Belt openness or whether there are very special circumstances.

Character and appearance

12. Mussenden Lane has an overarching rural character. Built form is primarily limited in height and largely concentrated at either end towards crossroad junctions, allowing the remainder of the lane to retain an undeveloped feel, characteristic of its rural setting. Set away from the crossroad junctions, the appeal site forms part of the more undeveloped section of Mussenden Lane. While it sits among structures such as static caravans, and contains shipping containers and storage, the limited scale and footprint of these ensures the rural, verdant character is overall retained. The containers currently on the site would be removed as part of the proposal.
13. The proposal would be set back from Mussenden Lane, with planting along the highway providing a level of screening, and the appellant references further

hedgerow planting. Nevertheless, the site would remain visible when passing along the road, and would be particularly noticeable from the entrance points to the site and from neighbouring plots. Although the barns are proposed to be coloured green, it remains that they are of a significant scale in terms of their footprint and height. Combined with the limited articulation along the elevations and the industrial appearance due to the steel cladding, they would read as unduly dominant features in the immediate surrounds.

14. I acknowledge that the barns would be read in the context of their rural setting, and that features of this nature are not wholly unexpected within the countryside. I further note that the size of the proposal has been informed by the amount and type of livestock and machinery that would be housed therein. Nevertheless, it remains that in this case the proposal would be of a particularly imposing nature at this section of Mussenden Lane, appearing visually jarring due to their large, industrial, and box-like appearance in an area of Mussenden Lane with limited vertical built form, particularly of a similar scale or nature to that proposed.
15. For the reasons given, the proposal would have a significant adverse effect on the character and appearance of the area. As such, it would fail to comply with Policy SP1 of the Sevenoaks District Council Local Development Framework Core Strategy 2011, Policy EN1 of the Sevenoaks District Council Allocations and Development Management Plan 2015, and the provisions of the Framework insofar as they seek to ensure high quality development that respects the character of the area, including responding to surrounding scale, heights and materials.

Highway Safety

16. Mussenden Lane is a narrow, single track road with two-way traffic. I observed two entrance points to the site, both of which are located within proximity of a bend in the road. Coupled with the planting lining both sections of Mussenden Lane, this limits visibility of traffic movements along the road from these points, even when entering and exiting the site in forward gear. The appellant has confirmed that these entrances are closed off when not being used, which requires vehicles to stop, partially on Mussenden Lane, for a period of time to allow the opening or closing of the entrance and exit points.
17. The appellant references twice daily visits to the site using such entrances since 2022. Notwithstanding that the main parties disagree as to the lawfulness of the existing access, the issue before me relates to whether the proposal would result in a level of increase of vehicular movements to and from the site that would significantly impact highway safety at this section of the road. The appellant is clear in their evidence that, with the proposal in place, they would seek to expand their operation at the appeal site. This would include increasing the amount of livestock, which could reasonably result in increased vehicular movements to and from the site.
18. However, I have not been provided with precise details on the level of increase that would occur, and whether this would lead to a corresponding change to the number and type of vehicle movements to and from the site each day. I note the appellant's reference to using one access as an entrance and the other access as an exit. Nevertheless, given my observations on the nature of the junctions between the site and Mussenden Lane, an increase in vehicle movements in these locations, and an increase in stopping on the road for opening and closing, could have the potential to increase collision risk at this section of the road. Therefore, in the absence of precise information in this

regard, I cannot be certain that the proposal would not significantly impact highway safety.

19. For the reasons given, I have insufficient information to conclude that the proposal would not have a significant adverse effect on highway safety. As such, it would fail to comply with Policy EN1 of the Sevenoaks District Council Allocations and Development Management Plan 2015 and the provisions of the Framework insofar as they seek to ensure development that creates a safe environment and does not have an unacceptable impact on highway safety.

Other Matters

20. The proposal would enable the appellant to expand their stock and house animals overnight away from predators. The barns are required for animal welfare purposes and would comply with good farming guidance and practice. The appellant also references planned hedgerow and meadow grass planting, along with introduction of beehives, chickens, ducks, a pond and wildlife area, and a lack of external lighting, which have the potential to deliver biodiversity benefits. While these benefits of the proposal are acknowledged, even when taken together with the limited weight attached to the proposed Framework changes, these would not outweigh the harm that I have identified above.

21. The appellant references possible changes to the scheme, including a reduction in the number of barns and changes to the materials used. However, I must assess the scheme as it appears before me. The appellant further points to a lack of objections from immediate neighbours, but this does not alter my assessment of the planning merits of the proposal.

Conclusion

22. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR