



Appeal Decision

Site visit made on 11 September 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/U2235/W/24/3339322

Cliff House, Cliff Hill, Boughton Monchelsea, Kent ME17 4NQ

- 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 Andrew Coombe against the decision of Maidstone Borough Council.
 - The application Ref is 23/504913/FULL.
 - The development proposed is for the change of use to garden land and the erection 1no. outbuilding to house home gym with associated decking, patio and hot tub area.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use to garden land and the erection 1no. outbuilding to house home gym with associated decking, patio and hot tub area at Cliff House, Cliff Hill, Boughton Monchelsea, Kent ME17 4NQ in accordance with the terms of the application, Ref 23/504913/FULL, subject to the following conditions: -
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: -
 - Drawing No.01: Existing Floor Plans (& Location Plan);
 - Drawing No.02: Existing Elevations; and
 - Drawing No.04: Proposed Block Plan.
 - 2) Details of any external lighting installed on the site (whether permanent or temporary) shall be submitted to and approved in writing by the Local Planning Authority within 6 months of the date of this appeal decision. The submitted details shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated thereafter in accordance with the approved scheme.
 - 3) Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no further development within Schedule 2, Part 1 Classes E and F and Part 2 Classes A and B shall be carried out on the additional garden land hereby permitted.

- 4) No additional windows, doors or other openings shall be inserted, placed or formed at any time in the south facing elevation of the outbuilding hereby permitted.

Preliminary Matters

2. The development has already taken place therefore, I was able to view the outbuilding at my site visit. Notwithstanding this, for the avoidance of doubt, I have considered the proposal on the basis of the drawings that were before the Council when it made its determination.
3. The Maidstone Borough Local Plan Review has been adopted on 20 March 2024 subsequent to the Council's decision notice having been issued. The Council's Appeal Statement lists those policies of the new plan that are the most relevant to this appeal. These are Policies LPRSP9; LPRSP15; LPRQD4; LPRHOU11 and LPRENV2. These policies supersede Policies SP17, DM1, DM30 and DM33 of the 2017 Maidstone Borough Local Plan.
4. The appeal site has been subject to a previous refused planning permission (reference 22/500119/FULL) that was dismissed at appeal (reference APP/U2235/W/23/3317837) for '*Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area*'. The proposal before me differs to that of the previously proposed scheme in that the extent of agricultural land sought to be changed to domestic garden land has reduced from approximately 2,700sqm to approximately 200sqm. This proposal also puts forward a reduction in the extent of the patio to the front of the outbuilding. For the purposes of clarity, I have considered the proposal, the subject of this appeal, on its own merits, although I have had regard to the previous appeal relating to the site.

Main Issues

5. The main issues raised by this appeal are:
 - a) The effect of the proposed development on the character and appearance of the area, having regard to both the outbuilding and the associated change of use to garden land; and
 - b) The effect of the proposal on the availability of best and most versatile agricultural land.

Reasons

6. The application site is located outside the Boughton Monchelsea settlement boundary and is in the countryside for the purposes of the Local Plan. The site is within the Loose Valley Landscape of Local Value.
7. With regard to the outbuilding the previous Inspector found its design and appearance to be reasonably typical of an ancillary outbuilding in a rural area. It was considered subordinate in height and design to the host dwelling and its location is not far from the host dwelling. By virtue of its single storey scale and low key appearance, it is neither visually prominent nor intrusive in the landscape. As such, the Inspector concluded that the building is not in itself harmful to the character or appearance of the surrounding rural area. The outbuilding remains the same as previously proposed. Having regard to Policy

- LPRHOU11 of the new Local Plan the outbuilding would be subservient in scale, location and design to the host dwelling. On my assessment of the outbuilding the appearance of the outbuilding itself in this rural location is acceptable.
8. However, the Inspector found that although the outbuilding is located on the periphery of the site, its erection and domestic use is closely associated with the change of use to garden land. The Inspector was principally concerned by the extent of the proposed change of use. As noted above, the extent of agricultural land sought to be changed to domestic garden land has significantly reduced.
 9. Previously the Inspector found that the erection of the outbuilding itself and the its domestic use is closely associated with the change of use to garden land and these could not be separated. The extent of the land sought to be changed to residential curtilage has been reduced to solely the area around the building itself and the land between the out building and the existing dwelling curtilage. As such, this would greatly reduce the potential for unrestricted domestic paraphernalia to be place over a wide area of the site that could result in harm to the character and appearance of the rural area.
 10. Notwithstanding the above, the outbuilding itself and some domestic related paraphernalia, such as exercise equipment or garden furniture, could be erected next to the outbuilding. This would domesticate the land. With the reduction in land now limited to the area closely related to the building itself any greater harm would be significantly reduced. As such, the harm to the character and appearance of the countryside is greatly diminished and I find the proposal's impact to be acceptable.
 11. The location of the appeal site is within a Landscape Area noted for its importance in maintaining the gap between urban areas, defined by a consistent, geographically important treeline to the South which stretches from Cliff Hill to Bottlescrew Hill. Given the small scale of the proposal these aspects of the landscape would not be substantially encroached upon. Overall, the openness of the countryside would remain.
 12. For these reasons, I conclude that the proposed development would not harm the character and appearance of the area, having regard to both the outbuilding itself and the associated change of use to garden land. As such, the proposed development would not materially conflict with Policies LPRSP9; LPRSP15; LPRQD4; LPRHOU11 and LPRENV2 of the Maidstone Borough Local Plan Review 2024, Policy PWP5 of the Boughton Monchelsea Neighbourhood Plan and the provisions of the National Planning Policy Framework (the Framework). These policies and the Framework seek, amongst other matters, development in the countryside to be of high quality design, be subservient in scale, location and design to the host dwelling and not to harm the character and appearance of the countryside.

Agricultural land

13. The land relating to the change of use is Grade 2 agricultural land. The proposed change of use of best and most versatile agricultural land was previously considered by the Inspector to be unacceptable. Although the site area has been significantly reduced in size, the proposal would result in the loss of high-grade agricultural land.

14. Policy LPRENV2(2) states there should be no loss of the best and most versatile agricultural land. That said, the proposal before me significantly reduces the area of land sought for change of use. The loss of best and versatile agricultural land to site the outbuilding is minimal, such that the economic impact as the result of the loss of agricultural land is greatly reduced. The small area of land involved would have very little impact upon the agricultural landscape, therefore I find the proposal's impact to be acceptable in this case.
15. For these reasons, I conclude that the proposed development would not have a harmful effect upon the availability of best and most versatile agricultural land. As such, the proposed development would not materially conflict with Policy LPRENV2(2) of the Maidstone Borough Local Plan Review 2024, Policy PWP5 of the Boughton Monchelsea Neighbourhood Plan and the provisions of the Framework. These policies and the Framework seek, amongst other matters, to resist the loss of agricultural land and to improve the landscape between South Maidstone and Boughton Monchelsea.

Other Matters

16. Boughton Monchelsea Parish Council has raised objection to the proposal as have some local residents. A number of those objections raised have been addressed within the 'Reasons' section above.
17. With regard to those other concerns raised, beyond the southern boundary are the rear gardens of the properties along 'The Quarries'. The properties along The Quarries have deep rear gardens. There would be reasonable separation distance between those dwellings and the proposed outbuilding. The rear elevation of the proposed outbuilding has no windows that might create overlooking, noting also that there is an established hedge on the boundary. The proposed development is for ancillary residential use. Any noise relating to the gym and use of the land would be unlikely to generate noise and disturbance of an unacceptable level. I consider the proposed development would not give rise to any significant unacceptable impacts upon residential living conditions of existing neighbouring occupiers.
18. The land for which the change of use is sought is adjacent to the original garden of the Grade II listed Cliff House, that is alongside Cliff Cottage, the neighbouring property to the east that is also listed. The outbuilding is located approximately 50m west of Cliff House. This site is also within the setting of the Boughton Monchelsea The Quarries Conservation Area. The Council considers that the scale of the outbuilding would not detract from the historic significance of the Grade II listed heritage assets. Furthermore, the Council also consider the design and position of the outbuilding would not detract from the setting of the Conservation Area. I see no substantive reason that might lead me to come to a different view on these matters.

Conditions

19. I have considered the planning conditions put forward by the Council in light of paragraph 56 of the Framework and the Planning Practice Guidance. The development has already taken place, therefore a time limit for implementing the development is not necessary. In the interests of certainty, it is appropriate that there is a condition requiring the development to accord with the approved plans.

20. The Council seeks a Site Management Plan to be submitted for its approval. This would include a biodiversity management plan and landscaping scheme for existing trees and hedges. This is a small site. I do not consider such a condition would be proportionate to the scale of the development or necessary for planning permission to be granted. A further condition linked to the Site Management Plan condition has also been put forward by the Council. I do not consider any other condition in addition to that condition is necessary.
21. To safeguard the character and appearance of the designated heritage asset, the countryside and the living conditions of existing neighbouring occupiers the restriction of permitted development rights is necessary. Limiting the insertion of additional openings in the outbuilding is necessary to protect living conditions. I do not consider the that a condition limiting the sub-division by condition is necessary as such a development would require planning permission in its own right.

Conclusion

22. For the reasons set out above, and subject to the conditions listed, this appeal should be allowed.

Nicola Davies

INSPECTOR