

Appeal Decision

Site visit made on 10 September 2024

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Appeal Ref: APP/M2270/W/24/3340146

Longbrooks Oast, Knowle Road, Brenchley, Kent, TN12 7DJ

- 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 Mr James Castro-Edwards against the decision of Tunbridge Wells Borough Council.
 - The application Ref 23/03128/FULL, dated 17 November 2023, was refused by notice dated 18 January 2024.
 - The development proposed is the demolition of barn and replacement with a single detached house
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Decision

1. The appeal is dismissed.

Main issues

2. The first main issue in this appeal is whether the proposed dwelling would be acceptable when consideration is given to local and national planning policy regarding the location of development. The further main issues are the effect of the proposed development on the character of the rural area, the setting of listed buildings, and on protected species.

Reasons

Location of development

3. The appeal site is shown in the Tunbridge Wells Borough Local Plan 2006 as lying outside the Limits to Built Development (LBD), where Policy LBD1 states that development will only be permitted where it would be in accordance with all relevant policies in the Local Plan. Core Policy 1 of the Tunbridge Wells Core Strategy 2010 sets out a priority for development on land within LBDs and says that sites outside LBDs will generally not be allocated or released. Core Policies 6 and 14 reflect this spatial strategy in relation to housing provision, and refer to the allocation and release of housing sites in defined village LBDs. This broad strategy for development is largely consistent with the National Planning Policy Framework's objective to seek sustainable development in rural areas by locating housing where it would enhance or maintain the vitality or rural communities.
 4. The location of the site is therefore not one generally supported by the development plan and, as the proposal is for an open-market house, nor one
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that represents affordable housing or is essential to a countryside location, so it cannot be considered an exception as allowed for in the development plan. From what I have read in submissions to me, and seen at the site visit, the appeal site is poorly located for local shops and services. I have therefore not been made aware of any circumstances to suggest other than it being likely future occupiers will be reliant on the private car.

5. The proposal would therefore be in conflict with the spatial strategy of the development plan as set out in the above policies which, amongst other matters, seek to ensure that development takes place in the most sustainable locations as possible.
6. However, there exists on the site a prior approval for the conversion of the existing building to four dwellings (23/01301/PNQCLA). The appellant states that if the current appeal is dismissed then the extant permission will be implemented. I see no reason to question that claim, and the Council have not drawn my attention to any reason to doubt it. I therefore consider the fallback position to be a real prospect.
7. Implementation of the prior approval scheme would lead to four dwellings on the site. As with the current proposal, occupants of those dwellings would be dependent on the private car. I have not been provided with evidence from any party as to a comparison of likely traffic movements between the proposed single large house and the four smaller dwellings. However, in my judgement it is unlikely that a single dwelling would lead to more traffic movements and hence higher degree of private car usage than four dwellings in this location. Hence, on the basis of the information before me, I consider that the proposed development is likely to lead to less overall reliance on private cars than the extant scheme and hence have a lesser impact on sustainability in relation to the matter of travel patterns and the spatial strategy of the Borough.
8. The Council state that the reuse of the existing building for the prior approval scheme would lead to lower carbon use and in theory use of less natural resources through new materials. The appellant states that a new-build scheme would allow for a more sustainable and energy efficient building to be created since regulations must be complied with relating to sustainability matters, whereas such regulations are less rigid for conversion of buildings. The Council do not dispute that submission. I also inspected the building at the site visit and saw its poor condition, which evidently would necessitate the use of considerable new materials to facilitate the conversion. Based on what I have read and seen I am minded to agree with the appellant's submissions that a new-build scheme offers the ability to create a building of higher sustainability credentials than with the prior approval scheme.
9. I therefore consider the existence of the prior approval for four dwellings on the site is a genuine fallback position for the appellant, and that this would have a more harmful impact on sustainability than the current proposal. I attach significant weight to this finding.
10. On the first issue it is my conclusion that, although the proposal is not consistent with the spatial strategy of the development plan, the existence of the extant prior approval scheme means the proposal should not be considered unsustainable by virtue of its location.

Character and appearance

11. The building that is proposed to be demolished dates from the 1940s or '50s and is a utilitarian agricultural building which has been altered in the past. Whilst I acknowledge the Council's comment that the building is typical of its period and what might be expected on an agricultural holding, it pays little regard in its scale, design, form or use of materials when viewing the character of the buildings in close proximity and the wider landscape setting. Those adjoining buildings are in residential use and are of varied design, including the contemporary architecture of Lake House to the north west, the traditional architecture of Trenches Farm to the south, and the converted oast building of Longbrooks Oast to the south east.
12. I concur with the appellant that, rather than being a neutral feature in the setting of nearby buildings and landscape, the design and scale of the existing building is a detractor. It plays little role in showing the site and area being of an agricultural holding character, and this building is visible in public views from the south and the east. The proposed dwelling is of residential character in its architectural treatment and use of materials. This is an appropriate design approach for the site, given that the dwelling would be sited in a small cluster of other houses with domestic appearance. Thus, the design, siting and form of the house itself would not be harmful to the landscape character of the area, or historic use of the land and wider area as an agricultural holding.
13. However, the proposed development goes beyond the demolition and replacement of the existing building. There is a substantial open area between the building and Longbrooks Oast. This large gap is important in retaining an impression of openness in this rural area, amongst the collection of buildings in the location. The proposals show a large L-shaped outbuilding in this location of considerable footprint, height and volume. Although said to be garaging, the size and layout of the building appears of very considerable size for the host property, and is located east of the entrance gate and parking area for the house. The scale and siting of this large building would have a materially harmful effect on the openness of the site and the rural character of the landscape by leading to a notable increase in built development within the existing loose collection of buildings in the location.
14. Core Policy 14 of the Core Strategy seeks to maintain the landscape character and quality of the countryside, and requires development in the rural areas to maintain local distinctiveness. Policy EN1 of the Local Plan requires, amongst other matters, all development proposals to be of a scale, layout, and coverage of site that respects the context of the site, and Policy EN25 requires development to have a minimal impact on landscape character. Whilst the proposed house that would replace the existing building satisfies these policies, the proposed outbuilding would not. On the second main issue it is therefore concluded the proposal would be harmful to the character and appearance of the area.

Setting of listed buildings

15. 1 & 2 Longbrooks Farm Cottages are Grade II listed properties located to the east of the appeal site. Under s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to have special regard to the desirability of preserving the setting of a listed building.

16. The list description explains these are tenanted cottages, divided from a house probably mid C15 in origin which have been altered in the late C16/early C17, and sets out in detail the interest that lies in the interior and exterior. The list description explains that the properties are a good example of a well-preserved evolved house of medieval origins. It is evident to me from what I have read and seen at the site visit that the significance of the cottages as a heritage asset derives from the architectural and historic interest of the medieval house, and how it has evolved internal and externally over time.
17. The appeal site is around 130m to the west and separated from these cottages by the large intervening house of Longbrooks Oast and its residential curtilage, by Knowle Lane, and by land and commercial building between the lane and the cottages. I consider the appeal site and the buildings on the site makes very little contribution to the recognised architectural and historic interest of the listed buildings, and hence to its significance as a heritage asset. The proposed development would preserve the setting of the listed building due to this distance and the intervening buildings, and there would be no harm to its significance as a heritage asset.
18. On the third main issue I therefore conclude that the proposal would comply with Core Policy 4, which sets out a requirement that development will have regard to the setting of listed buildings.

Protected species

19. The Council's fourth reason for refusal is as they consider there is insufficient evidence to demonstrate the proposed development would not have a significantly harmful impact upon protected species. The Delegated Report explains that no information on this matter was provided with the application. The appellant states that no such information was requested.
20. I have not been provided with any information regarding whether information on this matter is contained on the Council's validation list. However, I note that Core Policy 4 seeks to ensure no loss of important habitats and species, and encourages ecological evaluation of development sites. Policy EN1 of the Local Plan seeks to protect biodiversity and the value of ecosystems, with the supporting text to this Policy containing a 'checklist' that seeks to ensure necessary and up to date surveys have been undertaken, and any mitigation or compensation is set out.
21. I acknowledge that the Council have not provided any evidence that specifically draws my attention to the current proposal being potentially harmful to protected species. The appellant states that, with the prior approval at the property, there is no requirement to undertake any assessment relating to protected species. However, although works may be carried out to the building pursuant to that prior approval, complete demolition and replacement with a new dwelling and outbuilding is a materially different scheme. Thus, without any information on the possible impacts of this scheme on any protected species (if there are any) I consider such an assumption cannot be made.
22. My comments on this are consistent with the guidance in Circular 06/2005: Biodiversity and Geological Conservation that says '*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning*

permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'. Without such information I cannot be satisfied whether the proposal would have an adverse effect on any protected species and, if so, whether such an adverse effect could be overcome by any proposed mitigation measures.

23. On the basis of the information before me, I am therefore not satisfied the proposals would comply with the requirement set out in Core Policy 4 and Policy EN4 of the Local Plan that all development proposals would have proper regard to ensuring the conservation of protected species.

Other considerations

24. The planning application stated that a Sustainable Urban Drainage System (SUDS) would be used for the development. The consultation response from Southern Water explained there are no public foul and surface water sewers in the area, and that where a SUDS scheme is to be implemented the drainage details should be submitted to the local planning authority. The consultation response from the Upper Medway Internal Drainage Board also says that a drainage strategy has not been identified for the site. Policy EN1 states that, to address water issues, development proposals should ensure there is adequate drainage provisions within the development site by using SUDS, with the supporting text to the Policy saying that a consideration is how surface water runoff been considered in the scheme. Given the rural location of the site and in light of the two consultee comments, and with the absence of detail on this matter, I am not persuaded that the proposal satisfies the requirements of Policy EN1.
25. The siting of the proposed dwelling would be further from the adjoining property of Lake House than the existing building. The position of windows would ensure no overlooking to that property. For these reasons, there would not be any harmful effect on living conditions of existing occupants. Similarly, the distance from other properties ensures no adverse effect on other residents.

Conclusion

26. I have found in favour of the proposed development in a number of respects. However, it is my overall conclusion that the harm to the landscape character of the area, and the deficiencies in information regarding possible protected species and drainage, means there is conflict with the development plan on those matters. This conflict outweighs the other considerations. Having regard to the proposal and the development plan as a whole, it is my conclusion that the appeal should not succeed.

C J Leigh
INSPECTOR