



Appeal Decision

Site visit made on 30 August 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2024

Appeal Ref: APP/U2235/W/23/3329595

Cocklewood Farm, Five Oak Lane, Staplehurst, Tonbridge, Kent TN12 0HT

- 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 and Mrs Ray Vidler against the decision of Maidstone Borough Council.
 - The application Ref is 23/500231/FULL.
 - The development proposed is Demolition of an existing dwelling within an ancient replanted woodland and the erection of a new replacement dwelling elsewhere on Cocklewood farm.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing dwelling within an ancient replanted woodland and the erection of a new replacement dwelling elsewhere on Cocklewood farm at Cocklewood Farm, Five Oak Lane, Tonbridge, Kent, TN12 0HT in accordance with the terms of the application, Ref 23/500231/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was submitted by Mr and Mrs Ray Vidler against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have had regard to the Written Ministerial Statement (WMS) and draft National Planning Policy Framework published on 30 July 2024. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework. Any references to the Framework hereafter in this decision are to the latest version.
4. Since the Council issued its decision on the planning application, the new Maidstone Borough Local Plan Review 2021-2038 (MLPR) was adopted on 20 March 2024. As such, I have taken it into account in my decision. In regard to this appeal the Council have clarified the relevant MLPR policies are LPRSS1, LPRS9, LPRSP14(A), LPRQD4, LPRSP15, LPRTRA4, LPRHOU11 and LPRCD3. The appellant has had the opportunity to comment on these new policies.

Main Issues

5. The main issues are:

- the effect of the proposal on the rural character and appearance of the area, having particular regard to its scale, mass and siting.
- whether there is an essential need for a replacement farm manager dwelling at the appeal site, having regard to the functional need of the farming enterprise.

Reasons

Character and appearance

6. The appeal site is part of a wider parcel of land used for agricultural purposes and measuring approximately 32.5 hectares. The immediate area consists of a flat, largely agricultural landscape with a mixture of open fields interspersed with areas of woodland. Isolated houses are positioned sporadically along Wilden Park Road, albeit there is a small grouping of residential properties located immediately to the north of the appeal site.
7. The appeal site has an existing house accessed from Five Oak Lane and located within ancient replanted woodland which is covered by a Tree Preservation Order (TPO). An agricultural building is located adjacent to the house within the woodland. Given the surrounding dense woodland, the buildings are screened from long distance views, including from Five Oak Lane. An additional agricultural building located more centrally within the holding is visible in views from Wilden Park Road.
8. The appeal scheme proposes a replacement dwelling for the farm. Due to its location fronting Wilden Park Road it would be more visible than the existing dwelling. However, it would be positioned adjacent to the small cluster of residential dwellings fronting Wilden Park Road which are set back a small distance from the highway. This would prevent the dwelling from visually projecting significantly into the surrounding agricultural land and appearing isolated. Consequently, the siting of the proposed dwelling is such that it would appear as part of the existing linear development of residential buildings.
9. A Landscape Visual Impact Assessment is not included within the submitted evidence. Nevertheless, views of the proposed dwelling from Wilden Park Road would be partially screened by the hedgerow on the site's boundary with the road, albeit the upper parts of the building would be visible, as would glimpses of the building through occasional gaps in the hedgerow. The appellant has indicated that additional planting could be secured by planning condition, and in time this would provide further screening.
10. Views of the proposed building would also be possible from the surrounding agricultural land. An access road to the dwelling from the farm's existing access is proposed. This would prevent the creation of an additional access, and would not be prominent given the hedgerow screening on Wilden Park Road.
11. There is variation in the building styles of existing dwellings on Wilden Park Road. The proposal would have a traditional form which would not appear at

odds to the nearby dwellings and the proposal's gabled elevation and dormer roof would lower the building's profile in the landscape compared to a full two storey dwelling. Overall, it would provide an attractive building that would make an appropriate and suitable modern interpretation of local styles and character.

12. It is acknowledged that the proposal as a whole is significantly larger and taller than the dwelling it replaces. However, the submitted evidence indicates that the existing dwelling does not meet the Nationally Described Space Standards (2015). Furthermore, given its context adjacent to the existing cluster of buildings the proposal would assimilate well, rather than appearing as part of the more open countryside which surrounds the appeal site. In coming to this view, I have taken into account the potential for domestic paraphernalia associated with the dwelling.
13. The visual impact of the replacement dwelling is balanced against the benefits for the ancient woodland surrounding the existing dwelling. The siting of the new dwelling avoids development within the ancient woodland, whilst there would be opportunities for the reinstatement and replanting of ancient woodland following the removal of the existing dwelling. For the above reasons, the mass and volume of the replacement dwelling would be no more visually harmful than the original dwelling.
14. No specific guidance on the size of a replacement dwelling is offered within Policy LPRHOU1 of the MLPR or the Framework. The accommodation would comprise living, kitchen and dining rooms and two bedrooms. The appellant explains that the office at ground floor is required for the running of the farm enterprise. Whilst the total floor area is reasonably sizeable, the amount of living accommodation and limited garden space to be provided would not be excessive. I have been referred to the Maidstone Residential Extensions Supplementary Planning Document (2009), however, it is clear that this guidance relates to extensions to existing buildings rather than replacement dwellings.
15. Accordingly, I conclude that the replacement dwelling would be acceptable development in terms of its effect on the character and appearance of the area. It would therefore comply with MLPR Policies LPRSP9, LPRSP15, LPRQD4 and LPRHOU11 and the Framework which collectively seek, amongst other things, development that is high quality design which respects local and historic character and is appropriate to local landscape character.

Need for replacement dwelling

16. The proposal involves the replacement of an existing agricultural dwelling, which was granted planning permission in 2021¹. The appellant indicates that, in determining that application, the Council were satisfied that the holding was viable and there was a functional need for the dwelling.
17. The Framework is supportive of a prosperous rural economy. It therefore anticipates that dwellings will continue to be needed in rural areas to support the rural economy. However, Paragraph 84 of the Framework indicates that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. One such special circumstance is the

¹ Council Ref: 21/502923

essential need for a rural worker to live permanently at or near their place of work in the countryside.

18. I acknowledge that the farm operations have evolved in recent years, resulting in a reduction in chicken egg production and an increase in livestock rearing and production. Consequently, the farm now supports 150 Romney Marsh breeding ewes, 2 Beltex rams, 60 Limousin cross Belgium Blue bullocks, 4 Pietrain sow pigs and 1 Pietrain boar.
19. Policy LPRCD3 of the LRP permits new permanent rural occupation dwellings in the countryside outside settlements where it can be demonstrated that a number of criteria are met. I understand that detailed financial evidence in relation to the enterprise has not been submitted. However, a letter from the appellants' accountant states that the farm continues to trade at similar levels to prior years, remains profitable, and that there is no reason why this would not be the case for the foreseeable future.
20. The nature of the business and number of livestock necessitates a person who is experienced at managing livestock to tend to the flock, herd and oversee and monitor the animals. Living on site would enable the occupiers of the dwelling to keep a close eye on the livestock in the interest of animal welfare and to respond quickly when emergencies arise. During lambing and farrowing, it is necessary to check the livestock several times through the night. Birthing complications are normally avoidable through early identification which is made possible by residing on site, as is the identification of issues such as breach birthing, watery mouth, navel ill and fractures.
21. Without an on-site presence, it may be difficult to identify changes in the animals' behaviour, and depending on where the employee lived it could take a significant time for them to travel to the site.
22. The submitted evidence refers to the requirement to manage and be on hand for the livestock and for security purposes, particularly due to the appeal proposal's location near to an existing farms access from Wilden Park Road. This necessitates the re-location of a dwelling to the current appeal site, rather than within the ancient woodland which is where the enterprise's previous egg production was focused. As the dwellinghouse needs to be located within sight and sound of the agricultural holding and where the livestock are, it seems to me, that there is not existing suitable alternative accommodation in the locality.
23. I have previously concluded that the size of the dwelling does not appear excessive. Furthermore, the appellant has provided, and the Council has not disputed, examples of planning permissions for agricultural worker dwellings within the borough that have larger floor areas than the appeal proposal.
24. An essential need for a rural worker to live on site has, therefore, been demonstrated when taking account the animal welfare benefits, the security benefits, the long standing commitment of the appellant to an agricultural business and the absence of alternative accommodation nearby that could meet the needs of the enterprise.
25. Accordingly, I conclude that there is an essential need for a replacement farm manager dwelling at the appeal site, having regard to the functional need of the farming enterprise. It would, therefore, comply with MLPR Policies LPRSS1,

LPRSP9 and LPRCD3 and the Framework which permits permanent rural occupation dwellings where there is a clearly established functional need.

Conditions

26. I have had regard to the planning conditions that have been suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
27. Conditions related to external materials and soft and hard landscaping are necessary in the interests of the character and appearance of the area. However, I have combined the Council's suggested landscaping conditions into a single condition in the interest of brevity.
28. Conditions requiring the submission and implementation of ecological enhancement measures and details of external lighting are imposed in the interests of biodiversity and protected species.
29. I have included a condition related to sewage and surface water to ensure that adequate sewage and drainage arrangements are provided. I have modified the timing for the provision of details as these are not required prior to commencement of development. A condition requiring the implementation of renewable or low-carbon sources of energy is necessary to help ensure an energy efficient development.
30. I have imposed the Council's suggested restrictive occupancy condition as the site lies outside an area in which planning permission would normally be granted for a new dwelling and in order to reserve the residential accommodation for persons employed locally in agriculture. A condition requiring the demolition of the existing dwelling is necessary in the interests of the character of the area.
31. Bearing in mind the PPG's advice that the blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict permitted development rights for the dwelling. Therefore, I have not imposed the suggested conditions to this effect, and I have also modified the Council's condition related to site access and parking to remove reference to the removal of permitted development rights.
32. As the site is level, and the submitted drawings contain a satisfactory level of detail, it is unclear to me why further details of the existing levels and proposed slab levels are necessary. Consequently, I have not imposed the Council's suggested condition. As the site is located in a quiet area, benefits from a large area suitable for storage of materials and parking of vehicles, I do not consider that a condition requiring a Construction Method Statement is necessary. Consequently, I have not imposed the suggested condition. However, a condition restricting the hours of construction works is necessary in the interests of neighbouring occupiers' living conditions.
33. I have imposed the suggested conditions related to the vehicle parking layout and access in the interests of highway safety.

- 34. I have not imposed the suggested condition requiring the restriction of water usage as the PPG sets out that compliance with other regulatory requirements, such as the Building Regulations, will not meet the test of necessity and may not be relevant to planning.
- 35. As the part of the appeal site where the new dwelling would be constructed does not contain any significant trees, I have modified the suggested condition requiring the submission of an arboricultural protection plan, so that it relates solely to the demolition of the existing dwelling located within the ancient woodland.
- 36. As the proposal does not relate to an orchard area, I have not imposed the suggested condition requiring a landscaping plan demonstrating enhancement and management of grassland within an orchard.

Conclusion

- 37. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

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 shall be carried out in accordance with the following approved plans: Drawing Number; 2517_02 Rev B Block Plan - Dwelling to be Demolished; Drawing Number: 2517_03 Rev A Existing Roof Plan and Elevations; Drawing Number; P.2842.010 Rev A Site Location Plan; Drawing Number; P.2842.020 Rev A Existing Block Plan; Drawing Number; P.2842.060 Rev A Proposed Floor Plans; Drawing Number; P.2842.030 Rev B Proposed Block Plan; Drawing Number; P.2842.070 Rev A Proposed Elevations.
- 3) The development shall not progress above the damp proof course of the new dwelling until details of the materials to be used on the external faces of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) The development shall not progress above the damp proof course of the new dwelling until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development, to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to first occupation of the dwelling and maintained and retained thereafter.
- 5) The development shall not be occupied until details of measures for the enhancement of biodiversity including bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors have been submitted to and approved in writing by the Local Planning Authority. The measures shall be installed prior to occupation of the development and shall be retained thereafter.
- 6) The development shall not be occupied until details of measures for the disposal of sewage and surface water have been submitted to and approved in writing by the Local Planning Authority. The sewage and surface water measures shall be installed prior to occupation of the development and shall be retained and maintained thereafter.
- 7) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed locally in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990 or in forestry and any dependent of such a person residing with them (including a widow or widower of such a person).
- 8) Within one month of completion of the approved building, the existing dwelling shall be demolished, and the land restored in strict accordance with the approved landscape management plan with reference number 2517_02

Rev B (Block Plan - Dwelling to be Demolished). The restored land shall be retained in perpetuity.

- 9) The development shall not be occupied until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The details shall include existing trees, shrubs and other features, planting schedules of plants (noting species which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. Subsequently, the installation of all elements of the hard and soft landscaping and all means of enclosure shall be undertaken in full accordance with the approved implementation programme. Any soft landscaping that dies or is damaged within 5 years of its provision shall be replaced with soft landscaping of the same size and species.
- 10) No external lighting shall be installed at the site until details of any such lighting has first been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light, GN01, dated 2011 (and any subsequent revisions) (Environmental Zone E1), and follow the recommendations within the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'. 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 development shall be carried out in accordance with the approved details and maintained as such.
- 11) The dwelling shall not be occupied until the site access, parking and turning areas shown on the submitted plans have been completed. Thereafter the site access, parking and turning areas shall be kept available for such use.
- 12) Within one year of the demolition of the existing dwelling a survey of the woodland site must be carried out. The results of the survey and if necessary updated management plan, including a timetable for implementation shall be submitted to the Local Planning Authority for written approval within six months of the survey being carried out. If required, the measures within the updated management plan shall be carried out and completed in accordance with the approved details and timetable and thereafter maintained in accordance with the approved details.
- 13) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
- 14) Prior to the demolition of the existing dwelling an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 shall be submitted to and approved in writing by the Local Planning Authority. The AMS shall detail implementation of any aspect of the demolition that has the potential to result in the loss of, or damage to trees including their roots. It should also detail any tree works necessary and

include a tree protection plan. The demolition shall only proceed in accordance with the agreed details including the installation of tree protection measures prior to any on site works and the retention of these measures for the duration of the demolition works.