



Appeal Decision

Site visit made on 23 September 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/V2255/W/24/3341877

Orchard View, Eastling Road, Eastling, Kent ME13 0AN

- 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 Higenbottam against the decision of Swale Borough Council.
 - The application Ref is 23/505029/FULL.
 - The development proposed is Siting of 2 x mobile shepherds huts 2.7m wide x 5.0 m long on existing paddock and the installation of a septic tank and related works to be used as holiday lets. Planting of wild meadow on existing site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are no elevation or plan drawings in respect of the proposed shepherd huts, but their position and floor area are denoted on the block plan. The supporting statement sets out that the septic tank would be 2m in diameter, but the Council considers that it measures 3.8m on the block plan. The septic tank does appear somewhat larger based on the scaled block plan submitted. In addition, the supporting information specifies that the septic tank would be between 2.6m and 3.1m in height but there is no supporting drawing to establish the height. I have made my assessment strictly on the basis of the plans before me.
3. The appellants planning and appeal statements and decision notice refer to paragraphs 84 and 85 of the National Planning Policy Framework (the Framework). These paragraphs appear as paragraphs 88 and 89 in the latest revision of the Framework and therefore I have referred to these in my decision.
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became "National Landscapes". The parties refer to the appeal site being within the Kent Downs Area of Outstanding Natural Beauty (the AONB) which is now known as the Kent Downs National Landscape (KDNL). However, the legal designation and policy status of the AONB is unchanged and it remains an AONB in both, so I have used both terms where relevant.
5. On 26 December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended). In so far as it relates

to this appeal, the amendment now requires relevant authorities “in exercising or performing any functions in relation to or so as to affect land in an AONB...to seek to further the purpose of conserving and enhancing the natural beauty of the AONB” [my emphasis].

6. There are currently no regulations or guidance to assist, but the explanatory note to the LURA states “The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this.” This therefore forms a main issue for the appeal, and I am satisfied there is sufficient information before me to make my determination in respect of these matters.
7. The Planning Practice Guidance (PPG) refers to the relevance of management plans for AONBs for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas¹. The Kent Downs National Landscape Management Plan (KDNLMP) 2021-2026 is therefore a material consideration, as its objectives align with the Framework’s. During the appeal the parties have been asked for their comments on the content of the management plan insofar as they relate to the main issues. The comments received have been duly considered.

Main Issues

8. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the countryside including whether it would conserve and enhance the landscape and scenic beauty within the Kent Downs Area of Outstanding Natural Beauty (AONB); and
 - the provision of Grade II (best and most versatile) agricultural land.

Reasons

Character and appearance

9. The site is within the Kent Downs Area of Outstanding Natural Beauty (AONB) and I afford great weight to conserving and enhancing the landscape and scenic beauty in this area which has the highest status of protection in relation to these issues. The AONB is made up of landscape components with special characteristics and qualities which together distinguish it as a landscape of national and international importance and underpin its significance and natural beauty. The appeal site and surrounding area has a farmed rural landscape recognised in the KDNLMP for maintaining the natural beauty of the Kent Downs. The pastoral scenery is noted for being a particularly valued part of the landscape. The site is also outside the settlement boundary of Eastling and is therefore in the countryside for the purposes of the development plan.
10. In this section of Eastling Road, the road demarcates the settlement boundary with built form comprising residential properties lining its western side. In contrast the eastern side of the road is predominantly characterised by open agricultural fields with built form sporadic and limited to Orchard View, its buildings in equestrian use and agricultural buildings.

¹ Planning Practice Guidance Paragraph: 040, Reference ID: 8-040-20190721, Revision date: 21 07 2019.

11. Reference has been made to the term 'unjustified development' used in the decision notice. Whilst there is policy support in the development plan for rural tourism, Policy DM3 of the Bearing Fruits 2031- The Swale Borough Local Plan 2017 (SBLP) requires proposals to demonstrate compliance with a number of criteria. Criterion 1 (c) specifies that the sustainable growth and expansion of businesses must firstly consider re-use of existing buildings or the development of other previously developed land unless such sites are not available, or it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management of the countryside. In this case, there is no evidence before me that this criterion has been addressed and as such the proposed development has not been justified.
12. Whilst the shepherds' huts are modest in size, well designed and not permanently fixed to the ground, they are sited on the land and would have a visual impact. In any event, the shepherd huts cannot be considered in isolation, the cumulative impact of the proposed shepherd huts, hardstanding/parking area, parked cars and septic tank would unacceptably urbanise this undeveloped land and introduce an uncharacteristic use and associated built form into the prevailing farmed rural landscape.
13. The proposed development would be both visible from Eastling Road, neighbouring plots and sections of footpath ZR372, thus it would be inappropriate and intrusive in this countryside location, visually jarring with the open and green characteristics of the area and inharmonious with the natural beauty of the AONB.
14. Whilst the site is adjacent to the settlement of Eastling and its associated transport links, Eastling Road acts as a clear boundary to the settlement. Introducing uncharacteristic development beyond this line would unacceptably erode this well-established boundary.
15. Reference is made to planning application 19/503077/FULL which permits holiday let accommodation. From the evidence before me, this scheme appears materially different to the proposed development. Unlike the appeal site the existing land was not undeveloped, the scheme proposed the demolition of multiple buildings and did not increase the amount of built form in the immediate vicinity. Given that this development is materially different from the appeal scheme, the relevance of this decision is limited, and it would not sufficiently justify the appeal scheme. I have therefore considered this appeal on its own merits.
16. For the reasons above, I conclude that the proposed development would unacceptably harm the character and appearance of the countryside and would fail to conserve and enhance the landscape and scenic beauty within the AONB. It is therefore contrary to policies ST1, ST3, DM3, DM14, DM24 and DM31 of the SBLP and the Framework. These policies amongst other things aim to focus proposed development within defined settlements and seek development to conserve and enhance valued landscapes and achieve good design through reflecting the area's rural characteristics.

Provision of Grade II agricultural land

17. Despite being used as a paddock; the parties agree that the site is located on best and most versatile agricultural land. Policy DM31 of the SBLP advises that development on such sites will not be permitted unless the site is allocated for development in the local plan or there is no alternative lower grade land and the development would not result in the remainder of a holding becoming unviable.
18. Given that there is no evidence that the appeal site is an allocated site, and it has not been demonstrated that there is an alternative site of a lower grade, I conclude that the proposed development would result in the loss of the best and most versatile agricultural land. It is therefore contrary to policy DM31 of the SBLP insofar as it seeks to protect best and most versatile agricultural land.

Other Matters

19. Whilst the Framework supports rural tourist development, through the conversion of existing buildings and erection of new ones, paragraph 89 advises that in areas beyond existing settlements, proposed development is required to be sensitive to its surroundings. Equally the Framework emphasises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB'S and the proposal fails to achieve this aim.

Planning Balance and Conclusion

20. The proposed development would support the diversification of the rural economy, bring holiday- makers into the area and generate trade for local businesses, however, given the small scale of the development the benefits of the scheme would be limited. Conversely, the proposal would harm the character and appearance of the countryside and fail to conserve and enhance the landscape and scenic beauty within the AONB. This attracts significant weight against the scheme.
21. The benefits of the scheme are therefore significantly outweighed by the harm. As such, set against this harm, the socio-economic benefits associated with two shepherd huts would be limited, even taking account of the objective of supporting sustainable rural tourism in the Framework.
22. Therefore, the proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

V Goldberg

INSPECTOR