



Appeal Decision

Site visit made on 18 September 2024

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/C3620/W/23/3335707

Ash Copse Farm , Lyefield Lane, Forest Green, Surrey RH5 5SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr Luke Nicholson against the decision of Mole Valley District Council.
 - The application Ref MO/2023/0828/RM sought approval of details pursuant to condition No 1 of a planning permission Ref MO/2022/0362OUT, granted on 1 March 2022.
 - The application was refused by notice dated 1 June 2023.
 - The development proposed is outline application for the consideration of all matters reserved in respect of the erection of a farmhouse.
 - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely access, appearance, landscaping, layout and scale submitted in pursuance of condition No 1 attached to planning permission MO/2022/0362OUT, dated 1 March 2022.

Preliminary Matters

2. During the course of this appeal the Mole Valley Local Plan 2020-2039 (LP) has been adopted. The Mole Valley Local Plan (2000) and Mole Valley Core Strategy (2009) are no longer in place. Both main parties have had the opportunity to submit comments on the relevance of the LP to this case. Any comments received have been taken into consideration and the appeal is assessed on this basis.
3. Ash Copse Farm has a four bedroom, single storey, mobile home for an agricultural worker and resident dependents. At present the appellant and his family of five live on the site. Planning permission has been granted for its permanent siting, including a condition that if the agricultural use were to cease, it would be removed.
4. Outline planning permission has also been granted for the erection of a farmhouse with all matters reserved. Conditions are attached to this permission which limit occupation to a person solely for agricultural use within the agricultural holding or a widow or widower of such a person or surviving civil partner, and to any resident dependants. As well as a condition requiring the development is in accordance with the submitted plans and the standard condition requiring the approval of reserved matters which is the subject of this appeal. While I note that the approved plans indicate that the mobile home is

to be removed as a result of the development, there is no condition requiring its removal on the outline planning permission.

5. Details of a proposed farmhouse which include access, appearance, landscaping, layout and scale have been submitted. The appellant is therefore seeking approval for all these matters for the building as shown. The Council have confirmed that they have no objection to the proposed siting, access and landscaping.

Main Issues

6. The main issues are the effect of the proposed development on the rural character and appearance and the effect on biodiversity.

Reasons

Character and Appearance

7. The appeal site is outside the boundaries of the villages and therefore in the countryside for the purposes of the development plan. It is within a rural area and surrounded by open fields and woodland. Within Ash Copse Farm there are large agricultural barns, as well as a mobile home. These buildings and the farmstead layout are typical to this agricultural setting within the wider countryside.
8. The proposed farmhouse would be mainly two storeys with a hipped pitched roof, with part as a single storey side addition. It would be larger than the existing mobile home in terms of its footprint and volume. It is proposed in stone, with brick corner detailing and stone tiles and would have traditional fenestration and detailing. It would have four bedrooms plus en suite and bathroom at first floor with a kitchen, utility and two reception rooms as well as an office at ground floor and basement for plant and storage.
9. The proposed dwelling would be on part of the land which is used for parking and associated with the existing domestic use and it would not significantly extend the developed area on this site. It would be experienced within the context of the existing farm and its larger agricultural buildings, and its scale, layout and appearance would be appropriate to its countryside setting in this regard. The proposed dwelling would exceed the nationally described space standard, although the scale of accommodation proposed is not unreasonable for a family home. The proposed farmhouse would therefore be of a bulk and scale that would be proportionate to its setting and of an appearance that would be appropriate to this rural location.
10. Furthermore, although it would be likely to be visible from the neighbouring land the proposed dwelling would not be readily visible in public views, or from the nearest houses. As such, there would not be harm to the wider landscape.
11. The development of a farmhouse is established through the outline approval which does not include a condition which would require the removal of the existing mobile home. The principle that there is a requirement for one agricultural worker to live at this holding is accepted and it has therefore been established that the farmhouse would be reasonably necessary to support agricultural use of the site. Although the Council has treated the proposed development as a replacement dwelling, the appeal relates to reserved matters

following this approved outline planning permission. Therefore, the proposal does not relate to a replacement dwelling.

12. The Council have recommended a condition on this reserved matters application which would require the removal of the mobile home within three months of the occupation of the proposed dwelling. While, due to the requirement for agricultural worker occupation, and the scale of the business in the evidence put to me, it is unlikely that both would be occupied, conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. As such, it would not be reasonable to include such a condition at this stage. Even so, for the reasons I have set out, the reserved matters detail of the proposed dwelling are acceptable in the context of the appeal site's character and appearance.
13. An appeal decision for Bluebell Cottage has been provided (APP/C3620/W/22/3298811) where a replacement dwelling was allowed. This is located some distance from the appeal site and therefore the character and appearance of the area in which it is located differs from the appeal scheme. This is notably different to the scheme before me now and does not alter my findings.
14. Therefore, the proposed development would have an acceptable effect on the rural character and appearance of the area. Consequently, it would be in accordance with policies EC6, EN2 and EN4 of the LP, which require high quality design, that in the countryside beyond the green belt the rural character and largely undeveloped nature of the countryside should be protected and that new dwellings for land based workers should be a size commensurate with the essential need amongst other things.

Biodiversity

15. Due to its location, the nearby pond is considered to be a highly suitable habitat for Great Crested Newts. A preliminary Ecological Appraisal survey (PEA) has been submitted with the appeal and the Council has had the opportunity to comment on this. The PEA is based on a desktop survey and site visit. It concludes the ponds on site have a low suitability index for Great Crested Newt and does not recommend any further surveys.
16. The comments from the NatureSpace Newt Officer are on the basis that an assessment of likely presence and impacts has not been carried out and therefore a precautionary working statement or entry into a licencing scheme is required. However, the site specific evidence in the PEA states that there is no potential the protected species are within the application site. Therefore, based on the evidence before me, the proposed development would not be harmful to biodiversity. This is the case notwithstanding whether the adverse effect only became apparent once further detail had been submitted at reserved matters stage.
17. Therefore, the proposed development would have an acceptable effect on biodiversity. As such the proposed development would be in accordance with policy EN9 of the LP which, in part, requires the conservation and enhancement of biodiversity and significant habitats and species.

Conditions

18. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents. The standard implementation condition is attached, and in the interests of certainty, a condition to define the plans with which the scheme should accord, which includes the plans on which the Council based its decision. Details of materials are required to be submitted in the interests of the character and appearance of the area. A condition is also required that the development is carried out in accordance with the recommendations in the submitted PEA in the interests of biodiversity.
19. The council have suggested a condition which would require the removal of the mobile home. However, for the reasons above, this has not been attached. A condition restricting the occupation as an agricultural workers dwelling was attached to the outline permission. Therefore, this condition is not required for this reserved matters permission.
20. Planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Whilst the dwelling would be in a rural location, it can be seen above that the scale proposed would be appropriate and the removal of the freedoms to carry out development that would otherwise not require a planning permission in this rural area has not been clearly justified. I am therefore not provided with evidence that the restriction of permitted development rights would be reasonable or necessary in this case. As such the condition recommended by the Council in this regard is not attached.

Conclusion

21. For the reasons given above the appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of two years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: KCC2391-27 11/21ec Location Plan, KCC2391-33 05/23cb Block Plan, KCC2391-34 05/23cb Ground Floor and First Floor and Basement Plan, KCC2391-35 05/23cb North and South Elevation, KCC2391-36 05/23cb West and East Elevations.
- 3) Before any above ground works take place, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations and conclusions in the Preliminary Ecological Appraisal Survey by Vesper Conservation and Ecology Limited dated 30/10/23.