

Appeal Decision

Site visit made on 21 January 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/U2235/W/24/3350685

Cherry Tree Farm, Pett Road, Stockbury, Kent ME9 7RL

- 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 Sean Cole against the decision of Maidstone Borough Council.
 - The application Ref is 24/501979/FULL.
 - The development proposed is for the change of use from a poultry building to gym.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use from a poultry building to gym at Cherry Tree Farm, Pett Road, Stockbury, Kent ME9 7RL in accordance with the terms of the application, Ref 24/501979/FULL and the plans submitted with it subject to the following conditions:

- 1) Unless within three months of the date of this decision a scheme for landscaping around the parking area, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within three months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The use hereby permitted shall only take place between the following hours:
08:30 – 21:00 Mondays - Saturdays

Main Issues

2. The main issues are:

- whether the proposal would be a suitable location for a gym, having regard to the Council's spatial strategy; and;
- highway safety.

Reasons

Location

3. The site is located beyond any settlement boundary and is therefore within the countryside as defined in the Maidstone Borough Council Local Plan Review 2021- 2038¹ (MBCLPR). Policy LPRSP9 of the MBCLPR refers to development in the countryside and specifies that proposals will not be permitted unless they accord with other policies in the plan and do not result in significant harm to the rural character and appearance of the area. The building is within the North Downs in the Kent Downs National Landscape. The site and wider setting have a pastoral tranquil character, this positively contributes to the scenic rural character and appearance of the countryside and the Kent Downs National Landscape.
4. Policy LPRQD5 of the MBCLPR permits the conversion of rural buildings subject to adherence with six criteria. The Council considers that the proposal complies with these criteria and based on the evidence before me I have no reason to disagree. In addition to these, the policy requires proposals to ensure that the traffic generated by the use would not result in the erosion of roadside verges and is not detrimental to the character of the landscape.
5. The submitted transportation statement details that the former use generated an average of over 40 vehicular movements each day. In comparison, if each class on the current timetable is full, the maximum number of people attending classes in one day would be 56. This is the case on Tuesdays and Thursdays, but it is not representative of the rest of the week whereby total attendees in a day range from 28- 48. However, there are no more than 14 attendees per class and the arrival and departure times for sessions are outside peak hours, this therefore reduces the possibility of congestion on the local highway network. In addition, the current use reduces the number of medium/ rigid and articulated Heavy Goods Vehicles (HGV's) accessing the site and using local roads. These factors combined would ensure that the vehicular movements generated by the gym would not be detrimental to the character of the landscape.
6. The Council consider that because the poultry business is no longer viable, the 'fall back' position does not carry any great weight. However, the prospect of the fallback position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect to make the position a material consideration. In this scenario, whilst the poultry business is not viable, this or an alternative agricultural use could be in the future. Such a

¹ Adopted March 2024

use could operate with no restrictions on vehicular movements and activity, this is material to my decision.

7. Interested parties refer to there being considerable scope for expansion of the gym which would in turn increase traffic generated from those arriving and leaving the site. Whilst the number of classes could increase, class sizes are constrained by the building size. In addition, extra classes would have to take place at separate times thereby dispersing associated vehicular movements.
8. Reference is made to roadside verges being damaged and new passing places being created. However, it has not been demonstrated with sufficient evidence that this damage has occurred, or if it did that it was caused by those accessing the gym. Furthermore, I did not see evidence of this during my visit.
9. For the reasons above, the development is located in a suitable location, having regard to the Council's spatial strategy and the provisions of the Framework. It would therefore be compliant with policies LPRQD5, LPRSP9 and LPRSS1 of the MBCLPR. These policies amongst other things seek to protect the rural character and appearance of the countryside and Kent Downs National Landscape, avoid coalescence between settlements and ensure that traffic generated by any development would not result in the erosion of roadside verges and not be detrimental to the character of the landscape.

Highway Safety

10. The site is accessed from Pett Lane and Pett Road which are single track roads. Both Pett Lane and Pett Road are unlit, have multiple passing places and good forward visibility due to road alignment.
11. The submitted transport statement demonstrates that the road network has the capacity to support the use. In addition, the use results in less HGV movements compared to the former use and vehicular movements do not tie in with peak hour flows. Consequently, the use as a gym does not negatively affect the safe and free flow of traffic.
12. Whilst the use may result in an increase in vehicular movements, it has not been demonstrated with sufficient evidence that this unacceptably impacts highway safety. Given that there are no more than 14 attendees in a class, some users walk or car share, the access lanes are straight with multiple passing places, and those accessing the gym only need to travel along them for a short distance, the increased movement is considered acceptable.
13. Interested parties refer to conflict with horse riders using Pett Lane, large increases in traffic, classes running hourly from very early to very late and people driving too fast. Both users of the gym and interested parties have noted a general increase in traffic in the area and there is reference to this arising from diversions in place whilst the Stockbury roundabout improvements were taking place. As a result, the general increase in traffic cannot be solely attributed to the use of the gym, especially as the evidence supports that there are no more than four classes per day with classes starting at 8.30am and ending before 9pm.

14. Reference is made to “strong man” competitions being held at the site with disruptive mass movements. However, it has not been demonstrated with sufficient evidence that any events were held within the building, or if it did whether it had a negative impact on highway safety.
15. For the reasons above, the development does not negatively affect highway safety. It would therefore be compliant with policy SP15 of the MBCLPR. This policy amongst other things seeks to safely accommodate the vehicular and pedestrian movement generated by a proposal on the local highway network and through the site access.

Other Matters

16. The Council have advised that the transport statement was not submitted with the application and therefore they were unable to consider it at application stage. I am satisfied that the Council have had the opportunity to consider it as it is referred to within the Council's appeal statement.

Conditions

17. Given that no external alterations are proposed and the proposed development has already commenced, a time condition is not required nor is there a need to condition materials.
18. A condition is required to landscape around the parking area in front of the building. This is required to screen views of parked vehicles from outside of the site and therefore protect the countryside and Kent Downs National Landscape.
19. Operating hours as detailed by the appellant in the application form have been imposed to protect the living conditions of nearby residential properties and ensure that the tranquil rural nature of the site is not negatively affected.
20. The Council also suggest a condition requiring details of waste management. However, the use does not generate waste and therefore there is no need to provide details of waste management.

Conclusion

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

V Goldberg

INSPECTOR