



Appeal Decision

Site visit made on 4 February 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

Appeal Ref: APP/X2220/W/24/3345602

Pond Close Nursey, London Road, Temple Ewell, Kent CT16 3DQ

- 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 John A Peall (JP Planning Consultants) against the decision of Dover District Council.
 - The application Ref is 24/00080.
 - The development proposed is the construction of new barn for storage of hay, animal feed and machinery and construction of new access to London Road.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of new barn for storage of hay, animal feed and machinery and construction of new access to London Road at Pond Close Nursey, London Road, Temple Ewell, Kent CT16 3DQ in accordance with the terms of the application, Ref 24/00080, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 2023-02-01 and 2023-02-02.

Preliminary Matters

2. Since the appeal was submitted, the Dover District Local Plan to 2040 (the LP) was adopted on 16 October 2024. As such, Policies DM15, DM16 and DM17 of the Dover District Core Strategy (2010) referred to within the decision notice, are now superseded by Policies PM1, NE1 and NE2 of the LP, as per an email from the Council received on Wednesday 19 February 2025. Therefore, the appeal will be considered against the policies from this recently adopted plan.
3. A revised National Planning Policy Framework was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

4. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area;
- the effect of the proposed development on ecology on the appeal site and within the surrounding area; and
- the effect of the proposed development on groundwater pollution.

Reasons

Character and Appearance

5. The appeal site is an area of land within the northern section of Pond Close Nursery. The appellant indicates that the northern section of Pond Close Nursery, to the north of London Road, is predominantly used for the growing of hay for sale. The surrounding area is rural in nature, with open fields, allotments and a number of small buildings. The proposal would introduce a large barn to the site, with green plastic coated galvanised steel cladding, to be used for the storage of hay, animal feed and machinery. It also includes a tarmacked vehicular access point onto London Road to provide improved access to the site for the required modern equipment.
6. Whilst limited information has been provided, the Council highlight that the appeal site is within the Chalk Hills Landscape Character Area. They state that the Landscape Character Assessment defines the key characteristics of this area as the sense of elevation, openness and expansiveness, uninterrupted views across the landscape to the open slopes, woodlands and valleys of the Kent Downs National Landscape, the visual landscape pattern and the general absence of development.
7. The proposed barn would be a much larger building than others on the site. However, it would have an agricultural appearance which would not appear out of keeping in this countryside setting. It would also be located in relatively close proximity to the existing smaller buildings on the site, thereby not appearing visually isolated. Whilst it would be on higher ground than London Road, it would be well screened from this perspective by the existing tree line, ensuring it is not an overly dominant addition to the streetscene. Furthermore, due to its location at the foot of the valley slope, adjacent to the existing trees and in close proximity to the boundary of the site, it would have a limited impact on the openness of the area or the uninterrupted views across the wider landscape.
8. The proposed access would be a highly visible addition on London Road and would result in the loss of some of the hedge, grass bank and verge. Although I noted during my site visit that some of this had already been removed. However, the width and overall scale of this appears to have been kept to a minimum and would have the appearance of a simple access road, rather than a large, over-engineered highway. It would therefore not result in the unacceptable erosion of natural features. Whilst the site is located in a rural, end-of-village location, small access roads to agricultural land are not uncommon in such locations and therefore it would not be poorly related to its surroundings.
9. Whilst the proposal is not located within the Kent Downs National Landscape, the Council contend that the appeal site is visible within the visual setting and backdrop of the National Landscape. Referred to as the Kent Downs AONB within

the Council's report. Whilst this may be the case, for the reasons above, the proposal would not result in harm to the character and appearance of the Kent Downs National Landscape.

10. Consequently, the proposed development would not result in harm to the character and appearance of the surrounding area and would not conflict with Policies PM1 and NE2 of the LP. These policies collectively seek to ensure that all development achieves a high quality of design that demonstrates an understanding of the local landscape context and particular regard to the Landscape Character Area in which they are located. The proposal would also comply with the general design and landscape objectives of the Framework as outlined within paragraphs 135 and 187.

Ecology

11. In their consultation response, the Kent Wildlife Trust indicate that the proposed access would cut through a section of the London Road Roadside Nature Reserve (RNR) resulting in an area of approximately 85sqm being lost along with a section of hedgerow measuring approximately 8 metres in length. They outline that RNRs have been designated as such because they contain scarce or declining Kent habitat or the presence of a rare or notable species.
12. However, a map of the London Road RNR, issued by the Kent Wildlife Trust, provided by the appellant, shows that in the area where the access is to be located the RNR is limited to the grass verge adjacent to the highway and a narrow grass strip adjacent to the pathway. During my site visit I noted that the area which did not form part of the RNR, which from the submitted plans appears to be under the ownership of the appellant, had been fenced off.
13. The proposed access would result in the loss of a small section of the grass verge that forms part of the RNR. However, this area would be minimal and is comprised only of a narrow section of grassland. It does not include the majority of the bank and the hedgerow at the top of the bank which do not sit within the RNR. As such, the proposal would not harm the ecological value of this section of the RNR.
14. The Council highlight that the proposal is also in close proximity to a Nature Reserve further up the valley slope towards the ridge. However, due to the scale of the development and the separation distance between them, I see no reason as to why the proposal would harm ecology in this nearby Nature Reserve. I also note that within a letter of representation, a third party indicates that English Common Lizards are present on the site. However, there is no substantive evidence to support this claim.
15. Therefore, I do not consider that the proposed development would harm ecology on the appeal site or within the surrounding area and would not conflict with paragraph 187 of the Framework which states that planning decisions should contribute to an enhance the natural local environment by minimising impacts on biodiversity.
16. As part of the appeal, the Council have provided a copy of Policy NE1 of the LP, which relates to Biodiversity Net Gain (BNG) and they state in their report that BNG should be included in an assessment of likely impacts on the RNR and nearby Nature Reserve. However, this is not included as a reason for refusal and, due to the date of the application, mandatory BNG is not required.

Groundwater Pollution

17. The Council indicates that the appeal site is located within the groundwater source protection zone and due to the predominantly chalk ground condition, it is necessary to ensure that the proposed development, including surface water run-off from the development and the use of the land, would not be a cause for or a risk of groundwater pollution.
18. However, the proposal does not include a change of use of the land, which is already in use for agricultural purposes. Regardless of the ground conditions, I see no reason as to why the proposed building or the access would result in any increases in groundwater pollution in this area. Details of surface water drainage has been included within the submitted plan for the proposed access, due to its location on a slope and proximity to the highway. These details are considered sufficient for the level of development proposed.
19. Therefore, I do not consider that the proposal would result in groundwater pollution and would not be contrary to paragraph 196 of the Framework, which states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risk arising from contamination.

Other Matters

20. The Council's report states that the proposed development is contrary to Policy HE3 of the LP as the appeal site falls within an area of archaeological potential and the application did not seek to identify or assess the potential of the immediate area for its archaeological benefits/importance. However, this was not included as a reason for refusal and no conditions have been suggested in relation to this matter. Therefore, with little evidence before me to suggest otherwise, I do not consider that this is a reason to withhold planning permission.
21. Comments have been made in relation to the use of the land for the keeping of horses. However, there is no substantive evidence before me to suggest that the appeal site is not used for agricultural purposes as set out by the appellant. Therefore, these comments have no bearing on my consideration of the appeal.

Conditions

22. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision.
23. The Council have requested conditions in relation to compensation for the loss of landscaped areas of the highway verge and hedgerow and ecological enhancements. However, as I have found the proposal would not harm ecology on the appeal site, these conditions are not deemed necessary. A condition in relation to surface water drainage is also omitted as sufficient details for the development proposed has been included on the submitted plans. Lastly, a condition, to ensure the proposed building is used for agricultural purposes only, is also not necessary as the use of the building is outlined within the development description and as outlined above, I have no evidence before me to suggest it would be used in relation to the keeping of horses.

Conclusion

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

E Grierson

INSPECTOR