



Appeal Decision

Site visit made on 13 March 2025

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2025

Appeal Ref: APP/X2220/W/24/3350542

The 4 Acres, Elms Vale Road, Dover, Kent CT15 7AW

- 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 Mrs Lorraine Corrigan against the decision of Dover District Council.
 - The application Ref is 23/01174.
 - The development proposed is stationing of 3 containers and erection of associated structures including external staircase and construction of hard surface for use as a stables, tack and store retrospective.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the appeal form as it more accurately describes the proposal. At my site visit, I observed that the development was in place.
3. Concerns with respect to the wider conduct of the Council and its meetings are not within the remit of the appeal process. They also are not material to my assessment of the development on its planning merits. The mobile caravan, associated works and fencing within the wider site do not form part of the proposal before me. Matters relating to any enforcement decisions taken by the Council would not affect my assessment of the planning merits of the application before me.
4. Since the Council issued its decision, the Dover District Local Plan to 2040 (LP) has been adopted on 16 October 2024, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and guidance for relevant authorities on seeking to further the purposes of protected landscapes was published 16 December 2024. The parties have had the opportunity to comment with respect to these matters.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area with particular regard to whether the proposal conserves and enhances the natural beauty of the Kent Downs National Landscape (NL).

Reasons

6. The Kent Downs NL is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000

(CRoW) places a duty on me to seek to further these purposes. Paragraph 189 of the Framework confirms that great weight should be given to conserving and enhancing landscape and scenic beauty of the NL, and that the scale and extent of development should be limited.

7. The site lies within a dry valley, which the Kent Downs Area of Outstanding Natural Beauty (AONB) Management Plan 2021-2026 (MP) identifies as being one of the key features of the landscape character of the NL. The Elms School is visible from the site, and there is a residential property in proximity on the opposite side of Elms Vale Road. Other structures are in place but are not readily apparent. Moving away from Dover, agricultural buildings and a newly constructed dwelling can also be seen. Despite these buildings, and the site lying only a short distance from the built up area of Dover, it has a strongly rural character, with long, open views along the valley sides.
8. The development lies along the base of the valley. It consists of three containers with associated development. While it does not lie in a prominent position within the appellant's land, it is nonetheless a plainly visible structure within the landscape. While some hedging has been planted along the roadside, this is not mature. Even if it were, this would not address the harm that arises from the introduction of built development to the natural beauty of the area.
9. The containers have been partially clad in wood, but retain their metallic finish when viewed from the rear. They do not have any design or vernacular features which reflect the character of development within the NL. There is some maturing landscaping adjacent to the structures. However, this consists predominantly of a row of conifers. These are not strongly characteristic of the NL. Nor are they positioned in such a way as to integrate the proposal into the landscape or mitigate its adverse effects on the natural beauty of the area.
10. The NL is a working landscape and the MP identifies that over 50% of the farmed land cover within the NL is arable. This is therefore a characteristic of the NL and the visual effect of crop cover and associated use of large scale equipment is part and parcel of the NL. The pattern of use of the surrounding land would therefore not lead me to a different conclusion with respect to the effect of the proposal on the NL.
11. The development therefore has an adverse effect on the character and appearance of the area. It does not conserve or enhance the natural beauty of the Kent Downs NL and is therefore contrary to LP Policies PM1 and NE2 which require development to be of a high quality, be sensitively located and conserve the special character of the landscape.

Other Matters

12. The Council's reason for refusal referred to it not being demonstrated that the proposal is necessary, functionally required or ancillary to the existing land use. However, it has not directed me to any policies in its newly adopted development plan which require this.
13. The information provided with respect to the code of practice for the welfare of horses, ponies, donkeys and their hybrids acknowledges that shelter can be provided by means other than a stable/ housing. There is no evidence before me to demonstrate that other options for shelter have been considered. While the

appellant refers to the structure providing a facility for use when lambing, there is no substantive evidence before me as to the size of the flock or nature of the operation. Nor is there detail of community use of the site. Consequently, these factors are of limited weight.

14. The siting of a temporary building in this location in the past would not alter my assessment of the development. The previous decision on the site predates the development plan, Framework and amended duty set out in the CRoW. It would not alter my assessment of the appeal before me. The siting of solar panels to meet the energy generation needs of the site would not overcome the harm to the NL I have identified. While the appellant has cited an appeal decision elsewhere, I have not been provided with a copy of this. In any event, the arguments the appellant has cited do not all apply to this proposal. This site is not within the Green Belt, there is electricity, albeit via solar panels and there is a hard surface. It is not relevant that the containers would not be used for retail or residential use.
15. It is to be expected of any well designed development that it would avoid land at risk of flooding and that it would provide appropriate access onto the highway. These considerations would therefore be neutral in my assessment.
16. The use of the wider site for horse grazing and its status in respect of being an agricultural unit and eligible for farming grants and subsidies would not alter my assessment of the proposal before me. It may be that there are containers elsewhere in the landscape, however even if they were not permitted development, their siting would not justify further harm to the NL.
17. I have been referred to another decision¹ of the Council. This allowed an agricultural workers dwelling a short distance from the appeal site in an area with a similar landform to the appeal site. I acknowledge this allowed a larger structure within the NL. However, it is not for development of the same type as that before me. Nor do I have full details of the proposal and the material considerations that led to that decision being made. I also note this decision was taken prior to the amended duty within CRoW. It therefore is not of sufficient weight to overcome the harm I have identified from this development.

Conclusion

18. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be made otherwise. For the reasons given, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR

¹ DOV/21/00180 granted 18 November 2021