



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: 27 March 2025

Appeal Ref: APP/U2235/W/24/3348265

The Cold Store, Cannon Farm, Thorn Road, Marden TN12 9LR

- 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 and Mrs C Martin against the decision of Maidstone Borough Council.
 - The application Ref is 24/500251/FULL.
 - The development proposed is the change of use of former agricultural building to a single dwellinghouse, with associated curtilage area and parking provision along with external alterations.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of former agricultural building to a single dwellinghouse, with associated curtilage area and parking provision along with external alterations in accordance with the terms of the application, Ref 24/500251/FULL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made against Maidstone Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.
4. The Maidstone Borough Council Local Plan Review 2021- 2038 (MBCLPR) was adopted in March 2024 and now supersedes the policies in the Maidstone Borough Local Plan 2017 (MBLP). The decision notice refers to policies from both, but given the MBLP has been superseded, this decision will only refer to the policies cited from the MBCLPR.
5. Reference is made to policy LPRHOU1 of the MBCLPR, but a copy was not provided. I have viewed the online version of the MBCLPR to view this policy.

Background and Main Issues

6. The appeal building has an extant approval for the conversion of the building into two dwellings under prior approval reference 23/501474/PNQCLA. There is a real prospect that this could be implemented and as such it is a material consideration

in my assessment, it will therefore be referred to within the main issues below as the fallback position. Therefore, the main issues are:

- whether the conversion of the agricultural building is acceptable, having regard to the Council's spatial strategy;
- the effect of the proposed development on the character and appearance of the surrounding countryside; and;
- whether the proposal would be a suitable location for a dwelling, having regard to the Council's spatial strategy.

Reasons

Conversion of agricultural building

7. The Cold Store is a vacant agricultural building on Cannon Farm and would therefore be considered as a rural building as set out in policy LPRQD5 of the MBCLPR. This policy refers to the conversion of rural buildings and specifies that conversions for residential purposes are permitted subject to meeting multiple criteria.
8. Given the fallback position would result in the loss of the Cold Store, the principle of the loss of the agricultural building has been established and therefore the fallback position carries significant weight in assessing compliance with policy LPRQD5. As a result, it is neither necessary to consider an alternative commercial use for the building (criterion 3 (i)) nor does it need to be demonstrated that the use would be the optimum viable use of a building that contributes to the landscape character (criterion 3 (ii)).
9. Criterion 1) iii) refers to alterations proposed as part of a conversion and would therefore be relevant. In this criterion, consideration is limited to whether the alterations proposed compliment the landscape and building character in terms of materials used, design and form. In this respect, the proposed pitched roof and increase in glazing would maintain the form and appearance of an agricultural building. In addition, the proposed zinc cladding has a similar appearance to the existing sheet profiling and the black vertical timber cladding is a typical material for an agricultural building. Whilst the proposed alterations would not be possible under Class Q, the proposed external alterations would complement the landscape and building character, and therefore comply with criterion iii) of policy LPRQD5.
10. Whilst the alterations would increase the domestic nature of the building, this would also be the case for the fallback position, particularly as the fallback position proposes two dwellings.
11. For the reasons above, and in light of the fallback position, the conversion of the agricultural building is acceptable, having regard to the Council's spatial strategy. It is therefore compliant with criterion 1) iii) of policy LPRQD5 of the MBCLPR.

Character and appearance

12. The Cold Store is located beyond any settlement boundary and is therefore within the countryside as defined in the MBCLPR. The building forms part of a complex of agricultural buildings which vary in design, size and height associated with Cannon Farm.

13. The proposal would increase the height of the Cold Store but given the varying heights and forms of buildings on the farm, the increased height would not appear incongruous in this setting. Whilst the proposal differs from the fallback scheme, the increased height and additional glazing maintains the agricultural appearance of the building. As a result, the external alterations would not unacceptably affect the character and appearance of the countryside.
14. The introduction of an uncharacteristic residential use along with associated domestic paraphernalia would negatively impact the rural agricultural character of the site. However, the fallback position proposes two dwellings, and the proposed curtilage area is broadly the same as that detailed in the proposal. Whilst the access is not included in the fallback position, it would still need to be used to access the dwellings approved in that scheme. Accordingly, the fallback position would result in comparable harm to the rural character of the site through the introduction of an uncharacteristic residential use.
15. For the reasons above, the proposal would harm the character and appearance of the surrounding countryside. It would therefore be contrary to policies LPRSP9, LPRSP15 and LPRQD4 of the MBCLPR. These policies amongst other things require proposals to avoid significant harm to the rural character and appearance of the area and schemes to respond positively to the local character of the area. However, commensurate effects would be achieved by the fallback position.

Location

16. The site is located beyond any settlement boundary and is therefore within the countryside as defined in the MBCLPR. Policy LPRSS1 of the MBCLPR seeks to focus new residential development firstly in the urban area of Maidstone, then rural service centres and lastly specifies larger and smaller villages. This approach has been taken to direct development to areas of the borough that have been found to be the most sustainable locations for new development.
17. The site is located approximately 300m from the edge of Marden Village which is identified in the MBCLPR as a rural service centre. Despite the site's proximity to Marden, access on foot would be via Thorn Road which is unlit and has no footpath and this would likely encourage travel via private car to access day to day services.
18. Despite the above, the fallback position would result in two dwellings being located on the same site. Two households would likely result in more movements by private vehicles compared to one. This is because each household would have their own routine and vehicle(s). As such the proposal would likely reduce the number of occupants that would be reliant on private motor vehicles, and this would be an improvement when compared to the fallback position.
19. For the reasons above, the proposal would not be in a suitable location for housing, having regard to the Council's spatial strategy. It would therefore be contrary to policies LPRSS1 and LPRHOU1 of the MBCLPR. These policies amongst other things seek to ensure that a site is, or can reasonably be made, accessible by sustainable modes to Maidstone Urban Area, a Rural Service Centre or Larger Village. However, a worse effect would be achieved by the fallback position.

Other Matters

20. The Upper Medway Internal drainage board have advised that works within the application may require land drainage consent. Additionally interested parties refer to a lack of detail regarding foul and surface water drainage. Land drainage consent is separate to planning permission and the need to seek consent prior to undertaking any works pursuant to a permission would be a matter for the appellant.
21. The parish council refer to the appellant failing to demonstrate conformity with the Marden Neighbourhood Plan. The reasons for refusal do not refer to the neighbourhood plan, and the parish have not referenced specific policies. As such the relevance of the neighbourhood plan is unknown.
22. Reference is made to a lack of detail regarding the need to provide biodiversity net gain. The Council have suggested a condition to address biodiversity enhancement which would address this issue.
23. Interested parties refer to there being no meaningful evidence that the proposal embodies sustainable development. However, the proposal includes a water butt, air source heat pump, solar panels, EV Charging point and a cycle store. These enhancements support sustainable development.
24. Reference is made to the scheme failing to provide connectivity in the Public Right of Way Network (PROW) from the site. This would be no different to the fallback position.

Conditions

25. I have had regard to the Council's suggested conditions and the six tests. Where justified I have amended the wording of the conditions to meet the six tests.
26. In addition to the standard time condition, it is necessary for a condition to list the approved plans in the interest of certainty.
27. A condition is required to control the external finish of the development, to ensure high quality design and to preserve the character and appearance of the area. In respect of external lighting, a condition is required to safeguard protected species and the rural character and appearance of the area.
28. The trigger for condition five has been amended to reflect that the proposal relates to the conversion of an existing building. Conditions 5, 6 and 7 are required to secure and maintain landscaping and biodiversity enhancement. Whilst the superseded proposed block plan included landscaping and biodiversity enhancement, it did not provide a sufficient level of detail, and the amended plan omits the key relating to the proposed landscaping and biodiversity enhancement.

Conclusion

29. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

V Goldberg

INSPECTOR

Schedule of 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: Site location plan – 011.B, Proposed block plan – 031.C, Proposed floor plan – 061.B, Proposed elevations – 071.B and Proposed cycle store – 072.A
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the Cannon Farm Materials Board
- 4) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall:
 - a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light, GN01, dated 2011 (and any subsequent revisions) (Environmental Zone E1), and
 - b) follow the recommendations within the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'.
 - c) include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

- 5) The development hereby approved shall not be occupied until a hard and soft landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall:
 - (a) be designed in accordance with the principles of the council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012)
 - (b) show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed,
 - (c) provide details of new on-site planting in a planting specification (location, spacing, species, quantity, maturity).
 - (d) provide landscape implementation details and timetable
 - (e) provide a 5 year landscape management plan
- 6) The approved landscaping shall be in place at the end of the first planting and seeding season following first occupation of the approved building. Any trees or plants, which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 7) The development hereby approved shall not be occupied until a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the building structure by means such as swift bricks, bat tube or bricks and measures on the wider site such as habitat piles. The development shall be implemented in accordance with the approved details prior to first occupation of the approved building and all features shall be maintained thereafter.