
Appeal Decision

Site visit made on 15 December 2025

by Thea L Davis BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2026

Appeal Ref: APP/J2210/W/25/3374468

The Orchard, Marley Lane, Kingston, Kent CT4 6JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sarah Stef Penney against Canterbury City Council.
 - The application Ref is CA/24/02217.
 - The development proposed is erection of single-storey holiday accommodation unit (Use Class C3 with restricted occupancy) following demolition of existing outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of single-storey holiday accommodation unit (Use Class C3 with restricted occupancy) following demolition of existing outbuilding at The Orchard Marley Lane, Kingston, Kent CT4 6JH in accordance with the terms of the application, Ref CA/24/02217, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of the development has changed on the request of the appellant. The previous description was: 'Demolition of existing outbuilding and erection of a single-storey holiday accommodation unit with restricted occupancy, using exiting access and associated landscaping'. Although the original description of development was used for publicity for the planning application, the appellant wished to amend the description of development and the Local Planning Authority (LPA) has used this description also in submission of its statement of case. As such, the amended description has been used for the purposes of this appeal.
3. The Levelling-Up and Regeneration Act 2023 amended the name of the Areas of Outstanding Natural Beauty to National Landscapes. For the avoidance of doubt, where either the appellant or the LPA has referred to the Kent Downs Area of Outstanding Natural Beauty, I have taken it to mean the Kent Downs National Landscape and refer to it as such for this appeal.
4. On 16 December 2025 the Government published a consultation draft National Planning Policy Framework (NPPF). This draft does not constitute Government policy or guidance and may be subject to change before the final document is published. However, this draft is capable of being a material consideration.
5. The consultation draft of the NPPF seeks to alter the way in which development in National Landscapes should be considered, notably at N4. However, I consider that the proposed amendments would not represent significant change in overall policy intention in the context of this appeal.

6. The appellant refers to an 'outbuilding' that would be demolished/removed as part of this proposal. For the purpose of this appeal, I will refer to this as the 'existing structure'.

Main Issues

7. The main issues are whether the:

- Location of the proposal accords with the development plan
- Proposal would have an adverse impact on the character and appearance of the rural landscape, including the Kent Downs National Landscape.

Reasons

Legal and policy context

8. Section 245 of the Levelling-Up and Regeneration Act 2023 recently amended Section 85 of the Countryside and Rights of Way Act 2000 which is concerned with the purposes of conserving and enhancing the natural beauty of National Parks, National Landscapes, and the Broads. Authorities must seek to further these statutory purposes. The effect is to strengthen the duty in terms of making it a more proactive consideration of how those purposes may be furthered.
9. The Canterbury District Local Plan 2017 (CDLP) seeks broadly to support sustainable development that is appropriately located and of high-quality design that does not conflict with the purposes of conserving and enhancing the National Landscape. CDLP Policy SP4 additionally sets out the strategic approach to the location of development, identifying a settlement hierarchy. It sets out that in villages (including Kingston), priority will be given to protecting rural character. Infill development is to be appropriate to settlement size and form and of a design and scale that respects and enhances the character of the village.
10. CDLP Policy TV7 seeks to encourage tourism and recreation based rural diversification where this provides local jobs and development is of an appropriate scale and location. In the broader context of rural tourism attractions and facilities, CDLP Policy TV8 sets requirements for rural tourist accommodation, attractions and facilities. Largely these reflect the aforementioned points but include a need for acceptable parking provision and not to impact on residential activity. This policy sets an expectation that, "new development is related to an existing settlement and is not isolated in the open countryside". It is not explicit that this requirement applies to rural tourist accommodation specifically, however, I have considered it in this context for the avoidance of doubt.
11. CDLP LB1 provides detail in relation to development affecting the Kent Downs National Landscape, giving high priority to the conservation and enhancement of natural beauty. It seeks for proposals to be sustainably and appropriately located that support the economy and wellbeing of the National Landscape and its communities. CDLP Policy LB10 seeks the retention of trees and hedgerows that make an important contribution to the amenity of the site and surrounding area. It also seeks the incorporation of tree planting in new development.
12. NPPF paragraph 84 seeks to avoid the development of isolated homes in the countryside unless, amongst other circumstances, the development would re-use redundant or disused buildings and enhance its immediate setting. Prior to

consideration, I will establish whether this proposal would be 'isolated' in the context of NPPF paragraph 84.

13. NPPF paragraph 189 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. It confirms that development's scale and extent within these designated areas should be limited.

Main issues

14. The site lies within the Kent Downs National Landscape at the Kingston end of Marley Lane close to the junction with The Street and Westwood Road. At this junction, a road sign indicates that Kingston is ½ mile away in the direction of The Street and that Marley is ¼ mile further along Marley Lane.
15. Marley Lane is a single-track road and lies at a higher ground level than the site, which slopes away from the road. For much of the length of the boundary shared with the road, the site lies at a considerably lower level. There is a steep bank, with a row of trees and other vegetation at its top that runs alongside the road. The site is accessible via two separate accesses from Marley Lane. One is at the corner of the site closest to the aforementioned junction and the other is further along Marley Lane, where it appears to serve the main dwellinghouse with hardstanding at road height with steps down. The sides of the lane are verdant, but it is possible to perceive from the lane dwellinghouses on generous sized plots peppered along its length. On the opposite side of Marley Lane from this second access, there is a dwellinghouse. A few small clusters of dwellinghouses are sited a very short distance further along Marley Lane. The holiday accommodation unit would be located against the wooded boundary with Marley Lane and against a steep bank at the end of a track leading from the Kingston side of the site.
16. When on the site, the sense of seclusion is largely driven by the topography and generous size of the site, which together create a spaciousness within the site itself. Its sloping form, the surrounding sloping green hills and the trees that hide the road and connection to the outside world. This results in an experience of a certain degree of remoteness. However, it is still possible to see buildings on surrounding sites.
17. In its Statement of Case (SoC), the LPA asserts the site is in a rural setting and outside any settlement and that the "proposal would result in the creation of a holiday let in a rural location, isolated from any settlement and from day-to-day services". The LPA has not explicitly brought to my attention any settlement boundaries for Kingston to consider in relation to this appeal, insofar as these are relevant for assessing whether the site falls within or outside Kingston, nor does the CDLP appear to define the term "isolated". The SoC goes further to state that the proposal would, 'give rise to an unsustainable form of development at this location'.
18. According to the Court of Appeal¹ and in relation to the NPPF (now paragraph 84), "...the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement". Whether the proposed holiday unit is, or is not, "isolated" in this sense will be a matter of fact and planning judgment.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

19. The site is located in a rural area but it does not appear to be physically remote from the Kingston. The proximity of both Kingston and the other dwellinghouses on Marley Lane temper any true sense of remoteness and I am satisfied that in the context of CDLP Policy TV8, the site is related to Kingston.
20. Owing to the rural location of the site, it is most likely visitors would travel by car/private vehicle for their stay and would likely need to use a car to buy food and satisfy any other day-to-day needs. Travel by car is not usually considered sustainable and in these terms the location of the site is not particularly sustainable.
21. However, it would not be unusual to access rural tourist accommodation by car owing to the reduced connectivity rural places have. The CDLP Policies TV7 and TV8 do not set requirements in relation to visitor car use. However, CDLP Policy TV8 b. sets requirements in relation to access and parking. Owing to the size and scale of the development, it would be unlikely to increase traffic to the detriment of the rural area or highway safety. To ensure access and parking provision is acceptable details of access and parking will be controlled by condition.
22. Subsequently, the proposed development would not result in the creation of an isolated holiday accommodation unit. In principle the site would be a suitable location for a holiday accommodation unit in the light of the development plan and national policy.
23. With regard to the potential for effects on the National Landscape, the proposed development for the holiday unit would be discreetly positioned on the site. It would be difficult to see from Marley Lane due to woodland cover, a difference in ground levels and distance between the access and the holiday unit. It would be possible to see the development from a neighbouring site, e.g., from the adjacent slopes and dwellinghouses/farmsteads. However, the small size of the holiday unit and its position against a bank and trees means it is unlikely to be visibly prominent.
24. It is apparent the design of the proposed development has been considered and is not of low quality. Furthermore, the proposed development has taken the characteristics of the existing structure into account and will be of a similar scale and form, standing very close to where the existing structure stands. Some native planting is proposed around the holiday accommodation unit. These factors would reduce visual effects on the character and appearance of the site and National Landscape. The proposal also includes a tree protection plan and method statement that would preserve important tree cover along Marley Lane.
25. However, not all details relating to hard and soft landscaping have been submitted, so these would need to be controlled by condition. Nevertheless, the scale, amount, form and design of the proposed development are modest and respond to the existing features of the site in a way that is respectful and appropriate for this location. It would not result in harm to the rural character of Kingston, the character and appearance of the site or the Kent Downs National Landscape.
26. I conclude, therefore, that the proposed development is acceptable. The site would be a suitable location for the proposed development and that this would have an acceptable effect on the character and appearance of the area, including the Kent Downs National Landscape. The proposed development would not conflict with the development plan or the statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape, nor

would it result in harm. There would be no conflict with CDLP Policies SP1, SP4, TV7, TV8, LB1 or LB10 or the NPPF.

Other Matters

27. The appellant has indicated there are a number of planning precedents or similar developments nearby. Having reviewed these, most of the proposals appear to be materially different to the development proposed as part of this appeal. As such, these are afforded limited weight in the consideration of this appeal.
28. Representations from a member of the public and Southern Water indicate that no information was provided in relation to foul sewerage. However, for the avoidance of doubt, the application form for the planning application states that the proposed holiday unit would utilise the existing septic tank serving the main dwellinghouse.
29. Natural England (NE) has not objected to the proposal, however, as is set out in its consultation response, its focus has been to consider statutorily protected nature conservation sites and landscapes. It does not appear the site is near a site benefiting from statutory protection, so the response from NE does not mean the proposal is without risk of harm to the natural environment in this rural area.
30. Although the condition of the existing structure is capable of being a material consideration, its condition cannot be so in all cases. Although not a heritage asset, it is worth noting that the NPPF paragraph 209 states that where there is evidence of deliberate damage to or neglect of a heritage asset in the hope of making consent or permission easier to gain, the LPA should disregard the deteriorated state of the asset in any decision. In this case, due to the very limited effect the existing structure is likely to be having on the character and appearance of the area, its condition can be afforded nominal weight in consideration of the appeal.

Conditions

31. NPPF paragraph 57 sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have imposed conditions which I consider would meet these tests.
32. It is necessary to specify conditions confirming the time limit for development and approved plans for certainty (see conditions 1 and 2, respectively). In relation to submitted plans, there does appear to be a later revision of the proposed site plan than the version approved, however, this is inconsistent with other plans submitted including the tree protection plan. There does not seem to be any explanation from the appellant for this, so I have deferred to the earlier revision.
33. Condition 3 is required to be discharged prior to the occupation of the development due to the potential for impacts on bats and in the interests of nature conservation in the National Landscape.
34. In the interests of the character and appearance of the area, the conservation and enhancement of the National Landscape and highway safety, condition 4 requires that full details of proposed landscaping works are considered and approved by the LPA before the holiday unit is first occupied.
35. To ensure that trees are safeguarded, condition 5 requires compliance with the submitted tree protection plan and method statement.

36. Conditions 6, 7 and 8 ensure the use of the proposed development is restricted to holiday accommodation only.
37. I have considered conditions against the tests in the NPPF and the advice in the Planning Practice Guidance (PPG). The LPA proposed 10 conditions to be attached to any planning permission granted. I have attached most of these to the permission, subject to some minor amendments as necessary to comply with those documents and in the interests of clarity, precision, and simplicity. However, suggested conditions 3, 4 and 6 do not meet the tests and have not been included.
38. LPA suggested condition 3 does not meet the tests set out at paragraph 57 in this case, which states that conditions required to be discharged before development commences should be avoided, unless there is a clear justification. The proposed condition would have required a precautionary mitigation strategy to be submitted to the LPA prior to the commencement of development. It would need to detail how the buildings and vegetation will be cleared from the site in such a way as to avoid a breach of wildlife legislation. However, due to the small scale of the development and because such species benefit from a high level of protection under legislation, such a condition required prior to commencement of works is not necessary, proportionate or entirely reasonable.
39. For similar reasons, LPA suggested condition 4 does not meet the tests. Neither development plan policies, nor material considerations (including the NPPF) indicate that the proposed condition requiring an ecological enhancement plan to be submitted within 3 months of commencing works on site would be necessary, relevant to the development to be permitted or reasonable in all other respects.
40. Part of LPA suggested condition 6 is has been moved to another condition. The other part of the condition that relates to replacement of new trees is not necessary or reasonable as any tree planting has yet to be agreed in writing with the LPA.
41. Notwithstanding the above, the appellant should have regard to matters highlighted by the ecological advice service, particularly in relation to protected species. The appellant should also have regard to the Fire & Rescue Service requirements, particularly in relation to access, under the Building Regulations.

Conclusion

42. For the reasons given above, the proposal would not conflict with the development plan and there are no material considerations, including the NPPF, that indicate the decision should be made other than in accordance with it. The appeal should be allowed and planning permission granted.

Thea L Davis

INSPECTOR

Schedule of 8 conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby approved shall be carried out in accordance with the submitted documents and drawings:
 - E0.1 Rev. 03 – Existing site plan
 - P0.1 Rev. 01 - Proposed site plan
 - P1.0 Rev 01 – Proposed ground plan
 - P1.1 Rev. 01 - Proposed roof plan
 - P2.0 Rev. 01 – Proposed elevation 01
 - P2.1 Rev. 01 – Proposed elevation 02
 - P2.2 Rev. 01 – Proposed elevation 03 + 04
3. Prior to occupation of the development, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23: Bats and Artificial Lighting at Night' has been considered in the lighting design. The lighting shall:
 - Be designed following best practice guidance within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night'
 - Downward facing and on motion sensors
 - Site plan showing the location and types of lighting and details of light spill.

All external lighting shall be installed in accordance with the specifications and locations set out in the lighting plan and be maintained thereafter.

4. Prior to the occupation of the development, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - species, size and location of new trees, shrubs, hedges and grassed areas to be planted;
 - the treatment proposed for all hard surfaced areas beyond the limits of the highway (including access and areas for parking vehicles); and, walls, fences, other means of enclosure proposed.

All hard and soft landscape works shall be carried out in accordance with the approved details.

5. At all times, the development hereby permitted shall be carried out in accordance with the tree protection plan TH/A3/4939/TPP and the accompanying method statement, dated 10 December 2024.
6. The holiday let hereby approved shall be used for holiday accommodation only and shall not be occupied continuously for a period exceeding 3 weeks by the

same person(s) and shall not be reoccupied within 3 weeks of vacating the accommodation by the same person(s).

7. An up-to-date register of all current occupants shall be kept for the development hereby approved, and shall contain the name, main or home addresses and periods of occupation by any occupant(s); this log shall be kept up to date for a period and cover at least the last 12 months. The log shall be made available for inspection on demand at any reasonable hour by an officer of the Local Planning Authority.
8. The holiday lets shall not be used or occupied for any purposes other than as holiday accommodation by persons whose only, or principal, home is situated elsewhere.