



Appeal Decision

Site visit made on 20 November 2018

by **Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 14th December 2018

Appeal Ref: APP/V2255/W/18/3207891

2 Little Kennaways, Stalisfield Road, Ospringe ME13 0AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Murphy against the decision of Swale Borough Council.
 - The application Ref 17/506423/FULL, dated 11 December 2017, was refused by notice dated 31 January 2018.
 - The development proposed is construction of an agricultural barn.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of an agricultural barn at 2 Little Kennaways, Stalisfield Road, Ospringe ME13 0AB in accordance with the terms of the application, Ref 17/506423/FULL, dated 11 December 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: MU/04/142.13 rev I.
 - 3) Details of the weatherboarding, facing brickwork, roofing materials, windows, louvred panels and doors shall be submitted to and approved in writing by the local planning authority prior to them being attached or inserted into the building. The development shall be implemented in accordance with the approved details.
 - 4) Prior to the occupation of the development hereby permitted, 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 existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
 - 5) All hard and soft landscaping works, including tree planting, shall be carried out in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with the programme agreed in writing by the local planning authority. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the local planning authority.

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Procedural Matter

2. Construction work has begun on the appeal site and the decision notice and appeal form describes the development proposal as part retrospective. However, I noted on site that the part-built structure has internal walls dividing the ground floor into three spaces, while the appeal scheme involves an open plan space. For the avoidance of doubt, I have assessed the development as shown on the appeal plans rather than what has been part-built on site.

Main Issue

3. The main issue is whether the development would have an acceptable effect on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB), taking into account the agricultural needs of the land.

Reasons

4. The appeal site includes an access track off Box Lane leading to an area for the development itself. There is a line of vegetation to the south-east of the site. The site forms a small part of a much wider area of land belonging to the appellant. The land contains a number of fields and paddocks and a cluster of buildings around the main property at 2 Little Kennaways. At my site visit, it was evident that these buildings are used for animals and storage including hay. I observed a single cow in one of the fields, a number of horses and at least 6 sheep.
5. The appeal site and surrounding area are located within the Kent Downs AONB. The land rises up from Stalisfield Road, which provides long-distance views across the countryside from north-east to south-west. The area is predominantly rural with only a scattering of residential properties and other buildings including those for agricultural purposes. These buildings are low-key in terms of size, design and materials including the use of brick and timber cladding. As such, they do not detract from the green and open landscape that contributes positively to the character and appearance of the AONB.
6. The appellant has recently received a prior notification approval from the Council (ref 18/502874/AGRIC) for an open fronted single storey barn for the storage of hay, machinery and other equipment. The approved scheme has a similar width and footprint to the appeal development and would be located in a similar position. It would be divided into three rooms with the middle room open fronted on the north-west elevation. The approved scheme would have a pitched roof like the appeal development, but the eaves and ridge height would be around 600mm and 400mm lower respectively according to the evidence before me.
7. Although the prior approval process is separate to the planning application process, there is a reasonable prospect of the approved scheme being implemented should this appeal fail. This is because it would provide a barn for similar purposes in a similar location and footprint, albeit not as tall. Therefore, while it should not automatically guarantee planning permission for similar development, the fallback position is an important material consideration that carries significant weight for the purposes of my decision.
8. In terms of the agricultural justification for the development, it is apparent from the evidence before me that the wider land in the appellant's ownership is used for the grazing of animals including sheep. At the moment, the number of

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- animals compared to the size of the land is small, but the appellant seeks to increase the number of sheep and has stated the need for extra storage for hay and machinery. There are discrepancies in the reports by the appellant's planning and agricultural consultants in terms of the number of animals and the proposed land management, but the intention of a larger agricultural enterprise remains constant. In granting the prior notification approval, the Council evidently was satisfied that the approved scheme was reasonably necessary for the purposes of agriculture within that unit. Thus, given the similarities between the two schemes, there is no reason to doubt that there is an agricultural business.
9. I note that there are a number of existing storage buildings and the development would be distant from these buildings. However, it would allow for greater flexibility in storage options given the size of the appellant's land, while the structure could be made secure. The Council has queried the practicalities of a two storey storage barn and getting hay to and from the first floor. However, the development would not be overly tall and the openings appear to be sufficiently large to allow machinery to lift hay in and out. The two storey design also allows for a greater amount of hay to be stored. As such, the location and design does not affect the intended agricultural use of the development.
 10. Other parties have expressed concerns that the development could be used for office or residential. They refer to the long planning history and contend that previous development has been carried out without planning permission while approved schemes have not been properly implemented. They point to the cavity wall design as evidence of potential alternative uses. They refer to the appellant's business name as a non-agricultural company focused on the building trade, noting that the land immediately around the appeal site has been excavated and used for the storage of building materials and spoil. They also highlight that a Biodiversity Scoping Report prepared by the Kent Wildlife Trust refers to the appellant's land being used for horses, not agriculture.
 11. However, any planning permission would be for an agricultural barn and development would have to accord with the approved plans. In the event that an alternative design and/or use for the development were implemented, this would be a matter for the Council to investigate in the first instance. Therefore, I am satisfied from the evidence before me that the appeal development would serve an agricultural need.
 12. Turning to the effect on the character and appearance of the AONB, while the development would be two storeys, the difference in height with the approved scheme is not significant. The first floor openings would be dark stained doors to match the weatherboarding as well as louvred panels, which would be less obvious than glazing. There would be a greater amount of facing brickwork in the appeal development, but there are brick buildings in the vicinity and the colour and detail could be controlled by condition.
 13. The development would be more solid without an open frontage elevation, but this only applies to one elevation that faces away from Box Lane and Stalisfield Road and so would not be obvious. Moreover, the existing line of vegetation to the south-east would remain and would be enhanced, which could be secured by condition to provide mitigation through screening.

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14. Therefore, when compared to the appeal scheme, the development would not have a significantly greater impact on the character and appearance of the AONB. The small increase in height and differences in external appearance would not result in harm. Even without the fallback position, the development would be compatible with the size, siting, design and materials of existing buildings dotted across this part of the countryside and so would not be unacceptable for its location.
15. In conclusion, the development would have an acceptable effect on the character and appearance of the Kent Downs AONB, taking into account the agricultural needs of the land. Therefore, it would accord with Policies DM14 and DM24 of the Swale Borough Local Plan 2017. Amongst other things, Policy DM14 requires development to conserve and enhance the natural environment, be well sited, and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. Policy DM24 seeks to conserve and enhance the special qualities and distinctive character of the AONB. The development would also accord with paragraph 172 of the National Planning Policy Framework, which places great weight on conserving and enhancing the landscape and scenic beauty of AONBs and states that the scale and extent of development should be limited.

Other Matters

16. Concerns have also been expressed regarding the impact of the development on wildlife, but I have limited evidence relating to any effects. The retention and improvement of the existing boundary vegetation would provide some benefit to wildlife. The use of the land around the appeal site may have altered in recent years, but I have not found that the development would be harmful to the character and appearance of the area. Box Lane is a narrow road, but there is an existing access and little evidence that the development would result in adverse effects to highway safety.

Conditions

17. As it is not clear whether the development has commenced, I have imposed the standard time limit condition for clarity and compliance. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the same reasons. Conditions relating to materials and landscaping are necessary to ensure that the appearance of the development is acceptable.

Conclusion

18. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR