



The Planning Inspectorate

Appeal Decision

Site visit made on 20 June 2019

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **2 August 2019**

Appeal Ref: APP/V2255/W/18/3214269

Land at Swanton Farm, Bicknor, Sittingbourne, ME9 8AY

- 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 FW Mansfield & Son against the decision of Swale Borough Council.
 - The application Ref 18/501702/FULL, dated 27 March 2018, was refused by notice dated 5 July 2018.
 - The development proposed is erection of cherry coverings and framework.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of cherry coverings and framework at Land at Swanton Farm, Bicknor, Sittingbourne, ME9 8AY in accordance with the terms of the application, Ref 18/501702/FULL, dated 27 March 2018 subject to the conditions in Annex A.

Application for costs

2. An application for costs was made by FW Mansfield & Son against Swale Borough Council. This application will be the subject of a separate Decision.

Main Issues

3. The effect of the erection of cherry coverings and framework on the character and appearance of the area, having regard to the setting of the Kent Downs Area of Outstanding Natural Beauty (AONB) and whether the proposal would preserve the special architectural and historic interest of the nearby Grade II listed building including its setting.

Reasons

Character and appearance

4. The site is located within the AONB which is a statutory designation. The importance of the AONB designation is set out in The National Planning Policy Framework (the Framework) paragraph 172 which sets out that great weight should be given to conserving and enhancing the scenic beauty of AONBs. Policy DM24 of the Swale Borough Local Plan (LP) seeks to conserve and enhance the special qualities and distinctive character of the AONB and seeks to deliver the Kent Downs Area of Outstanding Natural Beauty Management Plan (MP). It also refers to the need to minimise the impact of individual proposals and their cumulative effect on the AONB.
5. Section 6 of the MP refers to the farmed landscape and that '*...historically orchards and horticulture have played an important part in the special*

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/18/3214269

character of the AONB landscape...’ and that ‘...in the Kent Downs it is the traditional cherry orchards that are particularly distinctive...’ Policy FL8 refers specifically to proposals for polytunnels. It requires them to be assessed for their impact on the AONB landscape, refer to siting and mitigation and to be fully justified.

6. The appellants information explains the extent of their soft and top up fruit farming across Kent. The production of Cherries is described as an essential part of the ‘fruit basket’ offered by the business to existing clients. The scheme proposes cherry coverings across the orchards annotated on the plans as ‘A’ and ‘B/C’. The reasons that the coverings are required are given as the improved quality of fruit, improved productivity and the ability to guarantee supply to customers. The appellants are limited by their land ownership and consider this location to offer an optimum soil type and orientation. In this regard the submitted evidence demonstrates that the appellants farming practices require the coverings to maximise the soft fruit crop.
7. I understand that the polytunnels applied for were omitted from a previous scheme granted planning permission by the Council. Nonetheless, I have considered the scheme before me on its merits, including consideration of its cumulative effects. The structures would have a maximum height of about 4m with a distance of about 7.75m between the apexes of the posts. There are generous margins around the edge of each field. The framework would be wooden and the wooden sections would be covered in a translucent polythene material. Bird netting is shown across the grass alleys that exist between the rows of trees.
8. The main concern expressed regarding additional coverings is their visual impact when viewed in combination with those already permitted. In this case the appellants have clarified¹ that the cherry areas would only be covered for a period of 3 months each year. As such the main impact would be when the coverings are in place. I appreciate that there will be some points in the immediate and wider locality where the coverings would be glimpsed and, in some cases, visible in part. The existing orchards and the wider site are well screened by mature windbreak features within the site and boundary foliage also provide a degree of screening. The uncovered frames would have a lesser landscape impact. Generally, they would be seen at a distance against the ground or a backdrop of trees and hedges.
9. There is an existing public right of way (PROW) that runs through part of the farm. Within the site the landscape is experienced within this context. Specifically, it is evident that the user is within the wider farm landscape. Views remain across the farm and to the distant backdrop of the Swale estuary. Due to their location, to the south and east of the PROW, I do not consider that the coverings would have a significant effect on the experience for user of this PROW.
10. From the footpath on the opposite side of Swanton Street there would be views looking west toward orchards A, B & C. I appreciate that there would be some views of the appeal site from this location. Nevertheless, this would be at some distance and for much of the year this would be filtered by foliage. The same is true of Bicknor Lane and Swanton Street. I note that there are some views of the farm and the group of fields that could cumulatively contain

¹ Final comments 29 May 2019

Appeal Decision APP/V2255/W/18/3214269

coverings. However, the occasions where they would be viewed in their entirety or without filtering from vegetation would, in my view, be limited. Therefore, I consider that, overall, the coverings would not have an adverse effect on landscape character, including the natural beauty of the AONB.

11. I have carefully considered the submissions from interested parties, including a landscape statement on behalf of the occupiers of Swanton Court. The submission makes reference to the Department for Environment Food and Rural Affairs code of practice for polytunnels, which contains a number of recommendations. In addition, I understand that the appeal scheme does not propose to rotate the coverings on the farm. Nevertheless, the code makes recommendations which sit alongside the planning requirements but I have no evidence that these should be binding. Furthermore, the scheme before me seeks fixed coverings and I have assessed the scheme on this basis.
12. In this case I have found that the appellants have justified their requirements and that the siting and mitigation, including an additional belt of planting, would not be in conflict with FL8. Accordingly, the scheme would not harm the AONB landscape. I therefore conclude that the scheme would not harm the character and appearance of the area, having regard to its location in the Kent Downs AONB. It would not be in conflict with policies DM3 and DM24 of the Swale Borough Local Plan (LP) and SD1, SD3, SD8, SD11, FL8, FL9 and AEu14 of the MP.

Listed Building Setting

13. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The Framework advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive, negative or neutral contribution to its significance.
14. There is no dispute that the site shares a boundary with the grounds of Swanton Court which is a Grade II listed building. It sits within a large plot behind strong boundaries. It is described as a 16th century hall house with a front range dating from 1854. From the evidence available, including the listing description, the significance and special interest of the building is derived from its age form, fabric and architectural features. The third-party heritage statement suggests that the setting of the building also extends beyond its garden to the wider rural area. The fruit growing is in my view an intrinsic part of that rural landscape.
15. The plans show that Orchard A would be closest to the boundary. The area where the cherry trees are located is set away from the boundary. Therefore, there would be an intervening grass area before the coverings begin. When travelling on the road and from the public right of way to the south and east of Swanton Court there are glimpsed views of the listed building within its grounds. The location of Orchard A does not, in my view, feature strongly in the experience of the listed building. As such the provision of cherry coverings would not harm the significance of the listed building or harm its setting.

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/18/3214269

Furthermore, in the wider context I consider that the building, its outbuildings and gardens would remain as experienced in a wider agricultural and rural landscape.

16. Accordingly, taking into account all of the above, I consider that the cherry coverings would preserve the significance and special interest, including the setting, of the listed building. It would not be in conflict with LP policies CP8 and DM32 which amongst other things seeks to preserve the special architectural and historic interest and setting of listed buildings.

Other matters

17. The issue of surface water drainage has also been brought to my attention. In particular that there is a need for the scheme to manage any additional run off created by the provision of the coverings. The report² produced seeks to provide a strategy that will ensure that the run off from the coverings will not result in an increased surface water discharge over the existing greenfield situation. It proposes trench infiltration and bunding to manage the runoff and surface water. However, the report does not set out exactly how this would be undertaken. Therefore, it would be necessary to secure the detail by condition.
18. The occupiers of Swanton Court also raise a concern about the view of the coverings from the garden and first floor of the property. When the coverings are in place the outlook from this property would change. However, the views would be filtered by the boundary treatment and would be part of the wider agricultural landscape in this location. Therefore, I do not consider that the scheme should be resisted on this basis.

Conditions

19. I have considered the conditions put forward against paragraph 55 of the Framework, the Planning Practice Guidance and where necessary I have amended the wording in the interests of precision. Conditions 1 & 2 are required because they set the necessary time limit and the approved plans as this provides certainty.
20. The appellant submits that the Council's suggested condition for landscaping is not necessary. More specifically that a landscaping condition is only required to secure additional shelterbelt planting as set out in Appendix H of the statement of case. I agree with the appellants that what is necessary is the additional shelterbelt planting.
21. In the interests of the character and appearance of the area it would be necessary to control the periods when the polythene is on the coverings. It would also be necessary to seek the detail of the surface water trench infiltration and bunding scheme.

Conclusion

22. Accordingly, for the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board
INSPECTOR

² Monson Flood Risk Assessment and Surface Water Drainage Strategy 01/03/18

Appeal Decision APP/V2255/W/18/3214269

Annex A – 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 plans: Site location plan, block plan and proposed sections 2559/134.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of shelterbelt landscaping in the position shown on the plan in Appendix H to the appellants' statement of case. Details shall include a plan showing details of the size, species and location of the planting, a timetable for its implementation and a management plan for the lifetime of the development.
- 4) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) No building hereby permitted shall be put to beneficial use until a scheme for removal of the polythene has been submitted to and approved in writing by the local planning authority. Details shall include a timetable for the months when the polythene would be in place, its implementation and provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for storage of the polythene.