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## Appeal Decision

Site visit made on 14 February 2022

**by Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 1<sup>st</sup> March 2022**

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**Appeal Ref: APP/V2255/W/21/3277498**

**Uplees House, Uplees Road, Oare ME13 0QR**

- 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 Justin Richardson against the decision of Swale Borough Council.
  - The application Ref 20/504841/FULL, dated 14 October 2020, was refused by notice dated 22 December 2020.
  - The development proposed is change of use of garage/workshop to create 1 No. holiday let and erection of single-storey side and part single, part two-storey front/side extension.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the banner above is taken from the Council's decision notice. It is more precise than that used in the application form.
3. The Council's officer report refers to The Swale Special Protection Area. I deal with this consideration in 'other matters' below.

### Main Issues

4. The main issues in this case are:
  - whether there is a need for the development and the site would be a suitable location, with particular regard to tourism and the rural economy; and
  - its effect on the character and appearance of the area.

### Reasons

#### *Need and Location*

5. Uplees House is a detached dwelling in a large garden in the countryside. It is within a hamlet of some dwellings and other rural buildings, about a mile from Oare which is a small village just beyond the edge of Faversham. The proposal would provide a two-bedroom holiday-let unit. Vehicular access would be from a secondary means of access to Uplees House.

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6. The Council's Local Plan<sup>1</sup> (the LP) restricts development in the countryside. An exception is for sustainable rural tourism initiatives, including by re-use of a building. The LP is broadly consistent with Government policy in the Framework<sup>2</sup> which supports a prosperous rural economy and sustainable growth and expansion of all types of businesses in rural areas. This includes tourism by the conversion of under-utilised buildings. The Framework also recognises that sites to meet local business needs in rural areas may have to be found beyond existing settlements.
7. The Council suggests that 'many' opportunities for tourism re-use of buildings remain to be exploited and that some approved schemes have not been implemented. There is, though, no objective evidence to that effect before me. The appeal site is part of the curtilage of Uplees House and is not in a built-up area. It is, therefore, by definition previously developed 'brownfield' land<sup>3</sup>. The unit would be proximate to Uplees House and geographically near some other dwellings. Accordingly, though in a remote rural area, it would not in itself be isolated. It would also re-use what appeared to be a vacant building (I saw a new garage and store building exists elsewhere in the garden).
8. However, the unit would not result solely from conversion and re-use of a building. Moreover, once planning permission is granted it runs with the land and the development would remain long after the appellant's personal objectives and requirements have ceased to be material. The unit would be of a size, and have all the facilities required, for use and occupation as an independent dwellinghouse — a new home in an area where ordinarily such development is strictly controlled. A condition could limit its use as a holiday-let for temporary occupation by guests. These users would not have the same demands or needs for access to services and facilities as would permanent residents and the application was not, anyway, made for a separate dwelling.
9. Consequently, while the extension and enlargement of rural buildings for tourism use is not, I note, prohibited by the LP — and in this regard the Framework also supports well-designed new buildings — such development in the countryside must nevertheless be properly justified in need (including size) and location.
10. I have not been informed that the appellant, or the proposal, relates to an existing tourism business. The application form refers to the unit as a 'writers retreat' and the plans include a 'study'; whereas, in the appellant's appeal statement, it is for 'walkers, hikers, bird-watchers and cyclists'. I saw that the proposal and its location would provide tranquillity and solitude. It would also be well-related to habitat suitable for birds<sup>4</sup> and a local network of rural lanes and public footpaths, including the Saxon Shore Way. These could be used by walkers, hikers, bird-watchers and cyclists, including to access some tourism related destinations and support some communities year round that also provide some facilities and services.
11. I appreciate that the appellant has carefully researched the type of guests envisaged, including families or separate couples. I have no reason to doubt that the proposal is sincere and genuine and I sympathise with the appellant's

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<sup>1</sup> Swale Borough Local Plan, July 2017

<sup>2</sup> National Planning Policy Framework

<sup>3</sup> Framework Annex 2: Glossary

<sup>4</sup> Including The Swale Special Protection Area, a local nature reserve, a site of special scientific interest and a Ramsar

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objectives in these respects. However, while these two groups of guests might not be mutually exclusive, there is nevertheless on the face of it an unexplained contradiction in the nature of the proposed holiday-let use. Furthermore, the appellant's research that apparently underpins a need for the proposal (including its size) and for it to be in this specific location, is not before me. Nor is there any other objective evidence to demonstrate compliance with the Council's 'business credentials' (LP paragraph 7.1.14). This might, for example, ordinarily be set out in a business plan or market appraisal report prepared, or endorsed, by a suitably qualified professional. I am, therefore, not clear about the viability and sustainability of the proposal, including what its contribution to the local rural economy might be.

12. I have been referred to a dismissed appeal decision<sup>5</sup>. I note that it was for a holiday-let unit to be established entirely by new build and, while there may be similarities, I cannot be certain that the location of that appeal site is directly comparable. It can, therefore, be distinguished from the circumstances of the current appeal. The Council has also referred to the potential for the development to create a precedent. However, I have considered the proposal and the appeal on its individual planning merits.
13. Taking all of the above into account, I am not satisfied that the appellant has demonstrated that there is a need for the proposed development or that the site would be a suitable location, with particular regard to tourism and the rural economy. Consequently, in these circumstances it would conflict with LP Policies ST3, DM3 and DM14. These policies include that development in the countryside will not be permitted unless supported by other policies of the LP and the Framework. The expansion of tourist and visitor facilities must be in appropriate locations and where identified needs are not being met by existing facilities in the locality.

#### *Character and Appearance*

14. The single storey garage/workshop has a low pitched gabled roof and a narrow rectangular floor plan. It sits within its immediate environs, which is a small, discrete part of the garden of Uplees House, and with the other dwellings nearby, is surrounded by a patchwork of fields of various sizes, many without appreciable field boundaries. There is some marshland and a network of waterways on the approach towards the river Swale estuary. While there are some pockets or belts of trees it is a largely flat, expansive landscape with some extensive panoramic views across the countryside. It is locally distinctive for these reasons.
15. The re-use and conversion would renovate the structure and fabric of the building. The new build elements would be in three distinct parts: a single storey 'extension' using the same external building envelope and form, a two-storey circular 'link' with flat roof and a square 'wing' one and a half-storey in height with a lean-to style monopitch roof. These otherwise disparate constituent parts would, in this case, be successfully integrated by a simple, cohesive design, an articulated L-shaped layout and a common palate of external materials. It would be a novel building, complimentary to its intended use and purpose. In addition, despite the increased floor area the spread of built form would be limited and it would have small, localised vertical protuberance so otherwise retain a mostly single storey presence on the site.

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<sup>5</sup> APP/V2255/W/20/3271083

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16. It would, therefore, be largely inconspicuous and innocuous within the garden of Uplees House. It would also be set inside a cordon of garden boundary landscaping. This includes a hedgerow along the edge of the site and some tall evergreen trees immediately to the south which would have a significant screening and oversailing effect. Even if the proximity of part of the extended building led to the thinning or removal of part of the hedgerow, it would be a limited, very localised loss. Moreover, a small section of new hedgerow could be replanted, if necessary, without any serious or widespread visual intrusion meantime. As a result, the development would not detract from any public views from Uplees Road or in the more distant wider area.
17. Considering the above, the development would not cause any unacceptable harm to the character and appearance of the area. It would comply with LP Policies ST3, DM3 and DM14. These policies include that development should be well sited and of a scale, design, appearance and detail that is appropriate to its location. It should also protect the landscape setting and tranquillity of the countryside, be sympathetic to the rural location and its context and cause no significant harm to the character of the area.
18. It would also accord with the Framework which seeks well-designed new business buildings in rural areas that respect the character of the countryside. Development should also add to the overall quality of an area, be visually attractive as a result of good architecture and layout and be sympathetic to local character, including surrounding built environment and landscape setting while not preventing appropriate innovation or change.

### **Other Matters**

#### *The Swale Special Protection Area (SPA)*

19. The appeal site is within a zone of influence of the SPA. It is designated<sup>6</sup> due to the presence of rare, vulnerable or migratory bird species. The birds are at risk of the impact of people in an area where the proximity of the occupiers of new development would be such that they would likely visit the SPA for recreational purposes. The Council has referred to an adopted strategy<sup>7</sup> which it considers would achieve suitable mitigation with a financial contribution secured by a planning obligation. There is no detail of the strategy or a planning obligation to this effect before me. However, since I intend to dismiss the appeal for other reasons, there is no need for me to consider the SPA any further.

### **Conclusion**

20. Notwithstanding my findings on the character and appearance of the area, the proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should not succeed.

*Robin Buchanan*

INSPECTOR

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<sup>6</sup> Conservation of Habitats and Species Regulations 2017 (as amended)

<sup>7</sup> The Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM)