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## Appeal Decision

Site visit made on 5 November 2024

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

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**Appeal Ref: APP/V2255/W/24/3339319**

**8 Harty Ferry Cottages, Harty Ferry Road, Oare, Kent ME13 0QD**

- 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 T Hammond against the decision of Swale Borough Council.
  - The application Ref is 23/503035.
  - The development proposed is the change of use land from agricultural use to residential garden and the erection of cabin on existing outbuilding footprint and siting of 1no. caravan.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's Decision Notice, as it is more precise and was agreed by the appellant<sup>1</sup> prior to the determination of the application. However, I have omitted the word "retrospective" as this is not an act of development under Section 55 of the Town & Country Planning Act 1990 (as amended).
3. Nevertheless, the cabin and the caravan were in situ at the time of my visit. The location and appearance of these outbuildings corresponds with the details shown on the application drawings. As such, for the avoidance of doubt, I have considered the appeal based on the details shown on the application drawings submitted.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.

### Main Issue

5. The main issue is the effect of the development on the character and appearance of the countryside with specific regard to the Kent Level Area of High Landscape Value (AHLV), having regard to the outbuildings and the associated change of use to garden land.

### Reasons

6. The appeal relates to the change of use of the L-shaped area of land immediately adjoining No 8 Harty Ferry Cottage from agricultural use to

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<sup>1</sup> Email dated 16 August 2023

- garden, and the erection of a cabin and siting of caravan. The appeal site occupies a significant area, which extends the entire length of the existing terrace, of which No 8 is at the end. Nevertheless, the proposal is for the domestic use by the appellant and members of their family. Whether the existing use is agricultural or domestic is not before me, as this would be a matter dealt with under a certificate of lawfulness application.
7. The area is mainly open although there are several ancillary outbuildings and structures including some decommissioned military structures. The site is part of the Luddenham and Conyer Marshes as designated in the Swale Landscape Character and Biodiversity Appraisal 2011 Supplementary Planning Document (SPD). The SPD indicates that the landscape is largely unspoilt and is considered to be in good condition, with a high degree of sensitivity. The key characteristics of the area are rough grassland largely used for cattle and sheep grazing and large-scale landscape with little sense of enclosure, amongst others. The appellant acknowledges that the immediate area is rough grass and part of the wider marshland.
  8. Notwithstanding the nearby cottages and outbuildings, the immediate area has a relatively open, undeveloped rural feel which contributes positively to the rural character and appearance of the Kent Level AHLV.
  9. Policy DM13 of the Swale Borough Local Plan (SBLP), adopted July 2017 allows gardens of dwellings to be extended in the rural area, where it can be demonstrated that it would not result in significant harm to the landscape, biodiversity or form of a settlement or inhibit the appropriate management of the land in accordance with Policy DM24 and DM33 and the Council's Landscape Character and Biodiversity Appraisal 2011 SPD; and a scheme of landscaping is provided and implemented that would, conserve, create, or restore the character of the landscape concerned. SBLP policy DM24 also seeks the conservation and enhancement of the rural landscape.
  10. The proposal would significantly increase the domestic garden area of No 8 and would provide additional outbuildings and structures within the vicinity, albeit some distance from the dwelling itself. I acknowledge that the design and appearance of the outbuildings are akin to ancillary units often found in domestic gardens. However, the provision of these, alongside other features which would be commonly found within a domestic garden including fences and means of enclosure, children's play equipment, garden furniture and other domestic paraphernalia, would provide a distinctly formal and domesticated appearance, at odds with the key characteristics of the Luddenham and Conyer Marshes, as set out in the SPD.
  11. While conditions could be imposed to limit permitted development, and thus the scope for further structures, there is no effective planning mechanism to control the wider range of domestic paraphernalia and informal landscaping which could be introduced over time. Given the extent of the appeal site, and its location within a sensitive area, noted for its open areas of grazing marsh, further domestication and erosion of the site's open character would be harmful.
  12. Part C of policy DM24 requires all landscapes to be informed by a landscape and visual impact assessment (LVIA). I have not been provided with an LVIA, which would provide a qualitative judgement on the effects of the land use change and development as proposed, on the visual amenity in the area; the

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significance of change in the character of the landscape; and whether these would be positive or negative.

13. Nevertheless, the appellant highlights that wider views of the site would be set against the “block” of the existing cottage terrace, which would minimise visual impacts of the proposal. However, the proposal would provide domestic use and additional outbuildings located some distance from the terrace and would be separated from it by the existing garden areas of those properties. The overall size and scale of the area proposed to be changed would be at odds with the existing modest gardens at the rear of the terrace and appear as an incongruous feature within the landscape.
14. Furthermore, there is insufficient information before me with regard to any proposed landscaping and whether this would mitigate the harm I have identified, or whether it would be appropriate in relation to the open rural character of the area. Given one of the key characteristics of the Luddenham and Conyer Marshes is large-scale landscape with little sense of enclosure, I cannot be certain that any proposed landscaping would avoid, minimise or mitigate adverse impacts on this character. Nor have any social or economic benefits been progressed by the appellant, that would outweigh the identified harm to the Kent Level AHLV.
15. For the above reasons, I conclude that the development is harmful to the character and appearance and intrinsic beauty of the countryside. As such, it would conflict with the relevant requirements in Policies DM13 and DM24 of the SBLP, the aims and objectives of the Swale Landscape Character and Biodiversity Appraisal SPD and the relevant paragraphs in the Framework, which collectively seek to protect, conserve and enhance the landscape value of the countryside, amongst other things. However, I do not find conflict with Policy ST3 of the SBLP which focuses principally upon settlement strategy. The content of this policy is largely irrelevant to the specific harm I have identified above.

### **Conclusion**

16. For the reasons outlined above and having regard to the development plan, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

*Robert Naylor*

INSPECTOR