



Appeal Decision

Site visit made on 6 June 2023

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/V2255/W/22/3296729

Hill Top Farm, Elverland Lane, Ospringe ME13 0SP

- 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 Ms Caroline Webb against the decision of Swale Borough Council.
 - The application Ref 21/504300/FULL, dated 3 August 2021, was refused by notice dated 11 March 2022.
 - The development proposed is described as "The erection of new stables and kennel facility on the side of the existing timber stables. The existing stables are dilapidated. The new stable block will consist of 3 horse and 3 dog stalls. The new stables will include a dedicated tack room, feed room, toilet and welfare facilities".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above refers to existing stables. However, on my site visit, I observed that this stable building is no longer on the site and a new building has been partially constructed. I have determined the appeal on the basis of the submitted plans.
3. The appellant states that the site benefits from a lawful use to keep horses. Within the context of this appeal under section 78 of the Act, it is not my remit to formally determine whether the keeping of horses is lawful. If the appellant wishes to ascertain whether it would be lawful, an application can be made under section 191 of the Act.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area, with particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB) and a designated rural lane; and
 - highway safety.

Reasons

Character and appearance

5. The site lies in a remote rural location to the north of Elverland Lane, a narrow country lane, at an elevated position towards the top of a valley. It contains a partially constructed timber building, with a static caravan behind it as well as a smaller modern timber building and a touring caravan. There are native and

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Appeal Decision APP/V2255/W/22/3296729

laurel hedges along most of the east and west boundaries respectively. A wide gravel driveway provides access onto Elverland Lane, with a close boarded timber fence and large metal gates separating it from the main part of the site which is largely surfaced with hardcore and gravel. Although only a snapshot in time, the site appeared to be little used at the time of my site visit.

6. The site is within the AONB where great weight should be given to conserving landscape and scenic beauty in accordance with the National Planning Policy Framework (the Framework). This part of the AONB is characterised by its dry valleys criss-crossed by sunken one-track lanes. It is largely farmed, with native hedge and tree lines along many of the field boundaries. The native hedge boundary on the site positively contributes to the landscape and scenic beauty of the AONB, but the buildings, surfacing and laurel boundary hedge are intrusive elements in the remote, downland landscape.
7. Stables and kennels are not unusual in rural areas, and the building has been designed to accommodate the needs of horses and guard dogs. However, at around 18m long, 9m wide and with a 3m high flat roof, the structure would be of a substantial size and incorporate significant amounts of glazing. Whilst the building would provide the space needed for the kennels and stables, the scale of the proposed building, its flat roof design and the amount of glazing would result in an incongruous structure in an area with relatively little built development.
8. The prominent site is located towards the top of a hill on one side of the Newnham Valley. It is visible in some long-range views from the west, albeit that these are largely of the tall evergreen laurel hedge which is not a natural feature in this landscape. I observed that the site is also visible from parts of Elverland Lane. Although the proposal would replace the existing laurel hedge with a shorter, native hedgerow and include other soft landscaping, this could be removed, become damaged or diseased and may only provide screening in the spring and summer months. In addition, the existing field access gap in the hedge would remain. As there is no certainty on adequate screening of the proposed building, and given its prominent position, the development would harm the distinctive landscape character of the AONB.
9. Policy DM26 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) seeks to resist development that would significantly harm the character of rural lanes and Elverland Lane is identified under this policy. The existing metal gates, timber fence and large gravel entrance give the site an urban appearance from the lane. As the proposal would reduce the size of the access drive and introduce new landscaping, it would not cause greater harm to the character of this rural lane. As such, it would not be contrary to Policy DM26.
10. The principle of an equestrian building is not incompatible with Policies ST3 and DM27 of the Local Plan and there is no local guidance on the construction and size of kennels. However, the development still needs to comply with other local and national policies, and I have found harm in respect of its impact on the AONB. The evidence indicates that there was previously a stable building on the site and, even if the site could be lawfully used for equestrian purposes and the proposed building would be a similar size to the previous one, this does not overcome the harm that I have found due to its flat roof design and amount of glazing.

Appeal Decision APP/V2255/W/22/3296729

11. Consequently, I conclude that the proposed development would harm the character and appearance of the area including the Kent Downs AONB. This would be contrary to Policies DM14 and DM24 of the Local Plan. Together, these require development to conserve and enhance the natural environment including the special qualities and distinctive character of the AONB. It would also conflict with Policies SD2, SD3 and SD9 of the Kent Downs AONB Management Plan 2021-2026 where they require development to conserve and enhance the local character and qualities of the AONB and be complementary in terms of form, siting, and scale. In addition, the proposal would be contrary to the Framework which requires great weight to be given to conserving the landscape and scenic beauty of AONBs.

Highway safety

12. The site is accessed from the single track Elverland Lane. Although there is an existing wide bellmouth site access, the narrowness and slope of the lane together with the vegetation alongside it means that there are only partial views providing limited visibility for drivers egressing the site, particularly of traffic travelling from east to west along the lane. Therefore, drivers must exit the site without being able to properly see oncoming vehicles, causing a danger to road users.

13. Inspectors dealing with previous appeals for its use as a caravan site to accommodate Gypsies found the access unsatisfactory due to insufficient visibility splays. This use was not found acceptable on a permanent basis and was only allowed for temporary periods given circumstances around the need for Gypsy and Traveller accommodation. The permissions have now expired, and, at the time of my site visit, the caravans did not appear to be in use.

14. In my view, the proposed narrower access width would reduce visibility for drivers egressing the site. There are mirrors on the opposite side of the lane which aid visibility, but these do not form part of the appeal site or scheme and therefore are not capable of being controlled in the future. As the proposed development would generate traffic movements and the access would be unsatisfactory, it would cause harm to the safety of road users. Whilst Kent Highways objected to previous proposals but did not comment on the current scheme, I have judged the proposed development based on my observations.

15. The appellant indicates that horse boxes and trailers are not unusual on country lanes and that there are no existing controls in terms of comings and goings to the site. There is a lack of certainty about existing and likely traffic movements and, whilst the site would be primarily visited and managed by three members of an extended family, the introduction of kennels would intensify its use. The Inspectors for previous appeals found the access arrangements unsatisfactory and, based on my observations, the proposed use and the alterations to the access would exacerbate the harm to road safety.

16. I note that it is not uncommon for stables and kennels in rural areas to not have ready access to services and public transport, but there is still a need to ensure that safe access is provided, and I have found harm in this regard.

17. Overall, I conclude that the proposed development would harm highway safety. This would be contrary to Policy DM6 of the Local Plan which requires accesses to provide a suitable safety standard where proposals involve an intensification of use. It would also conflict with the Framework where it requires

Appeal Decision APP/V2255/W/22/3296729

developments to provide safe and suitable access to the site and to not have an unacceptable impact on highway safety.

18. Policies DM24 and DM26 of the Local Plan relate to conserving and enhancing valued landscapes and the character of rural lanes. I do not find these policies to be directly relevant to highway safety.

Other Matters

19. Notwithstanding the appellant's comments, Local Plan Policy DM3 relates to rural based employment and is not directly applicable to this appeal.
20. There are some concerns about the potential residential occupation of the building, but this has not had any bearing on my decision which is based on the merits of the proposal before me.

Conclusion

21. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR