
Appeal Decision

Site visit made on 17 August 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2022

Appeal Ref: APP/U2235/W/21/3287610

Field adjacent to Dancing Green, Lenham Road, Headcorn, TN27 9LG

- 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 Adam Francis against the decision of Maidstone Borough Council.
 - The application Ref 21/502548/FULL, dated 16 April 2021, was refused by notice dated 22 July 2021.
 - The development proposed is erection of vehicle workshop, training hub and drop in centre for military veterans and creation of new vehicle access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice describes the proposal as the "erection of a restoration garage". However, the lengthy description on the application form indicates that the proposed use of the building is wider than this. As well as the vehicle workshop it is intended that the building would be a training hub for military veterans and a meeting space and base for four military charities. Consequently, as agreed by the parties, it would be more accurate to consider the proposed development as being that set out in the heading above.

Main Issues

3. One of the reasons for refusal concerned the absence of surveys to demonstrate that protected species would not be adversely impacted. An extended Phase I habitat survey has now been undertaken. This found that the appeal site is of limited ecological value with no evidence of the presence of protected species. Recommendations are made about habitat enhancement and the need to check for the presence of nesting birds if the hedgerow is removed during the season. None of these findings have been challenged and there is no objection in this respect.
4. Therefore the main issues are whether the location is suitable for the proposed development having regard to local policies and the effect on the character and appearance of the area. Furthermore, if any harm would occur, whether this is outweighed by other material considerations, including the proposed use.

Reasons

Whether suitable location

5. Policy SS1 of the Maidstone Borough Local Plan of 2017 sets the spatial strategy for the Borough and identifies the expanded urban area of Maidstone as the principal focus for development. Rural service centres, including Headcorn, will be the secondary focus. This policy is concerned with the spatial distribution of all development and therefore applies to the proposal as a mixed 'sui generis' use outside of any Use Class.
6. The appeal site is well outside the defined settlement boundary of Headcorn. Therefore, the proposed building does not benefit from the support in Policy SS1 5) for services to meet the needs of the local community and suitably scaled employment opportunities. Rather criterion 9) applies to the appeal site which establishes that in other locations, protection will be given to the rural character of the Borough. As a result, the proposed development would not be in accordance with the broad thrust of the spatial strategy.
7. Policy SP17 provides that development proposals in the countryside will not be permitted unless they accord with other policies in the Plan and do not result in harm to the character and appearance of the area. Therefore, whilst locational policies do not favour the proposal, development in the countryside is not entirely ruled out by the Local Plan. Before a final conclusion can be reached on this point, consideration therefore needs to be given to the effect of the proposal on the character and appearance of the area.

Character and appearance

8. The appeal site comprises a field used as paddocks. It is within an area of flattish countryside with field boundaries marked by trees and hedgerows. Whilst the land nearby is predominantly open there are pockets of built form in the vicinity. These include dwellings, a stud farm and associated buildings and the agricultural buildings opposite at Newcome Farm. The traveller sites and hardstandings to the south-west are said to be unauthorised but there are further dwellings and a fencing yard to the north-east. However, the strong overall impression is of a rural area with limited development.
9. The Council refers to the Low Weald Landscapes of Local Value but there is no detail as to its attributes or how the appeal site contributes to them.
10. The proposed building would be 800 sq m. This size has partly been dictated by the need to accommodate wheelchair users and amputees with prosthetic limbs safely and efficiently in a workshop environment. Nevertheless, it would be a substantial building with an industrial appearance. Materials could be controlled by condition to blend the building into the surroundings as far as possible but this would not mitigate its overall dimensions.
11. The proposal would be visually separated from Dancing Green and Newcombe Farm which would accentuate its visual impact. Such a large structure would intrude into the largely undeveloped surroundings in a significant way and would detract markedly from the intrinsic character of the countryside. The formation of the entrance through the existing hedge would not be intrusive in itself. Nevertheless, it would open up the proposal to views from along Lenham Road. Because of the existing and proposed planting the proposal would not be very prominent in wider views once this has established. But

landscaping should not be used to 'hide' a building that would otherwise be out of place in this location.

12. The buildings at Newcombe Farm are said to have a floor area of 1,050 sq m. However, they are clearly agricultural in origin and because they are made up of different elements have less of a visual impact than a single structure. Reference is also made to a larger building under construction at Fiddlers Green close to the appeal site. Presumably this is for an equestrian use which is generally accepted to require a countryside location and sited in conjunction with the existing stud farm buildings. As the proposal would be 'free-standing' it can be distinguished from this permission.
13. Policy DM37 provides that planning permission will be granted for the sustainable growth of rural businesses in the rural area, subject to certain criteria. The policy and explanatory text infer that this is to enable the expansion of an existing operation rather than the re-location of one from another site. In any event, as the new building would not be small in scale, appropriate to the location or satisfactorily integrated into the local landscape, it would conflict with criterion i. Therefore, the proposal would not accord with Policy DM37.
14. In conclusion, the proposal would result in harm to the character and appearance of the area. It would therefore be contrary to Policy SP17. As it would not protect the rural character of the Borough it would be at odds with the spatial strategy in Policy SS1. There would also be conflict with the principles of good design in Policy DM1 and the design principles in the countryside contained in Policy DM30. In particular, the design, mass and scale of the development would not maintain local distinctiveness or respond positively to the local character of the area.

Other material considerations

15. The proposal would enable an existing vehicle restoration business to be re-located from premises that are said to be in a rural location. This trades by maintaining tractors, farming equipment and Land Rovers. The appellant indicates that vehicle restoration can take up to 6 to 12 months and that he plans to be working on 8 vehicles at any one time. There is limited information to support the current circumstances of the business and why and when it needs to move. However, as the proposal would provide a base for it to continue then this weighs in favour.
16. The testimony given in support of the application is powerful in conveying that there is a considerable need for support for military veterans, especially those suffering from post-traumatic stress disorder. In order to maintain their health and well-being, access to mental health specialists and other advice is extremely important as well as having a place where they can meet others who have served and may be experiencing similar issues. To this end a full-time mental health nurse would be housed at the building as well as a drop-in centre. Furthermore, the intention is to provide training in mechanical skills so as to provide future employment opportunities as well as boosting self-esteem. Veterans and military leavers would be trained to NVQ standard under the auspices of Mid Kent College.
17. Existing centres within Kent are only open for 84 days a year in total to serve 77,000 veterans in the county. The proposed centre would be open 6 days a

- week all year round thereby filling a gap and significantly increasing provision for this group.
18. However, one of the purposes of the planning system is to ensure that development is located in the right place. A site outside of any town or village for a combined industrial, educational and health use would not achieve that objective. The siting of the development is driven by the fact that the appellant owns the land. Whilst understandable this should not be the only consideration.
 19. The appellant has nevertheless sought other premises without success and paying a commercial rent would eat into the resources of the charities. Furthermore, whilst its Armed Forces Champion has been involved, the Council has not indicated any possible locations that are available and suitable. The absence of clear alternatives therefore also provides support for the proposal.
 20. The ambition of the scheme is laudable but it is nevertheless unclear as to how it would operate in practice in some respects. For example, there is no detail or commitment as to how the four charities would use the facility. In particular, the layout plans show that the majority of the internal space would be given over to the workshop use with only one unmarked room on the ground floor potentially available to provide services to veterans. The upstairs areas are shown to be storage and a waiting area.
 21. It is therefore difficult to see where the offices for the charities would be located. Furthermore, it is not obvious how and where the mental health consultations, CV training and computer skills, mock job interviews and social interactions referred to could take place alongside the workshop. The floor plans do not show any spaces allocated for these purposes. In addition, it has not been explained why such services could not be provided in existing venues in the locality and why a new facility is required.
 22. Whilst not doubting the appellant's sincerity there is also no mechanism in place to ensure that the training elements and the support hub for veterans would materialise and would continue in the long-term. If this part of the venture were to fail for any reason, then the remaining development would be a vehicle repair workshop in the countryside. To emphasise, there is nothing to indicate that this is likely to happen. But in order to make an exception to development plan policy, a greater level of assurance that the proposal would come to fruition as anticipated and be sustained would be required.
 23. No detailed wording has been put forward for possible conditions to ensure that the building is used as proposed. It is not for me to do this but, in any event, it is doubtful whether a condition would be effective in the long-term given that the building would have been erected. The appellant also indicates that he would be happy to submit a planning obligation to provide certainty that the proposal would be used for the described and intended purposes. However, the Planning Inspectorate's publication *Procedural Guide: Planning appeals – England* explains that this should be provided at the time of making an appeal. There are no very exceptional circumstances to warrant delaying this decision.
 24. An appeal for a workshop in connection with the motorsport business was allowed at Willow Dene in Skegness in 2021 (Ref: APP/D2510/W/21/3267373). That site was also in the countryside but the Inspector concluded that its location was suitable with particular regard to accessibility and that other

material considerations outweighed the conflict with development plan policies. However, a notable difference between that case and this one is that the impact of the proposed building on the landscape was found to be acceptable. This decision therefore provides limited support to the proposal.

25. If the recommendations from the habitat survey were implemented then there would be a modest net biodiversity gain and this provides a similar level of support for the proposed development.
26. The building would cater for the needs of those with physical or mental impairments which have a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Therefore, some of those attending the building are likely to have a relevant protected characteristic as defined by the Equality Act 2010. As a consequence the public sector equality duty is applicable. The proposal would be beneficial in eliminating discrimination against, and advancing equality of opportunity for, those persons and fostering good relations between them and others.

Final balance

27. The proposed development would cause harm to the character and appearance of the area. The National Planning Policy Framework recognises the intrinsic character and beauty of the countryside and this would be diminished. The Framework also stipulates that the planning system should be genuinely planned. However, the proposal would undermine the spatial strategy for the Borough if it were to be allowed. It would be contrary to relevant development plan policies in this respect and the objections to the scheme are significant.
28. On the other hand, the Framework also indicates that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas. They should also recognise that sites may have to be found beyond existing settlements. However, as the proposed building would not be sensitive to its surroundings, it does not benefit from the full support for economic growth provided by national policy.
29. The Framework also promotes healthy communities and indicates that decisions should enable healthy lifestyles, especially where this would address identified local health and well-being needs. The opportunity to provide a dedicated facility to meet the significant needs of veterans falls into this category. The first-hand evidence provided indicates the gravity of the situations that some individuals find themselves in and their need for help. This innovative project is supported by the Parish Council.
30. However, the importance to be given to this aspect of the proposed development is qualified because there is no means to ensure that the building would be used in this way into the future. Furthermore, it is not obvious how the internal areas would offer the facilities and services that are proposed. That is not to say that they would not occur as intended. But rather that in order to give these matters significant weight greater surety is required than is currently the case.
31. The appeal decision at Willow Dene and the opportunities for net biodiversity gain are of limited weight.
32. At the end of the day, the positive aspects of the proposal do not outweigh the significant objections. I have had due regard to the likelihood that the building

would be used by those with a protected characteristic of “disability” as referred to by the Equality Act. However, the visual harm that would be caused and the poor location of the site when judged against relevant policies for the area, outweigh the benefits that are outlined in paragraph 26. It is therefore proportionate and necessary to dismiss the appeal.

Conclusion

33. The proposed development does not accord with the development plan and there are no other material considerations that outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR