



Appeal Decision

Site visit made on 15 November 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal Ref: APP/G2245/W/21/3285344

New Tyehurst Farm, Cowden Pound Road to Truggers Lane, Mark Beech, Edenbridge, Kent, TN8 7DA

- 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 Lee Witchell against the decision of Sevenoaks District Council.
 - The application Ref SE/20/01834/FUL, dated 30 June 2020, was refused by notice dated 30 April 2021.
 - The development proposed is described as "Proposed Conversion of Agricultural Barns into 12no. Residential Units, including the Demolition of 2no. Existing Residential Units and Construction of 2no. Replacement Dwellings."
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Decision

1. The appeal is allowed and planning permission is granted for the proposed conversion of agricultural barns into 12no. residential units, including the demolition of 2no. existing residential units and construction of 2no. replacement dwellings at New Tyehurst Farm, Mark Beech, Edenbridge, TN8 7DA in accordance with the terms of the application, Ref SE/20/01834/FUL, dated 30 June 2020, subject to the conditions in the attached schedule.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. The appeal site is in the Metropolitan Green Belt. The Framework confirms that the Government attaches great importance to Green Belts. The identified fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Council and the appellant agree that the proposal would not compromise the openness of the Green Belt. Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal is not inappropriate development in the Green Belt and does not conflict with the guidance set down in the Framework on this matter.
4. The Council has confirmed that a signed Section 106 agreement to secure on-site affordable housing provision has been received and would overcome the fourth reason for refusal. Therefore, I have confined my assessment of this appeal scheme to the remaining reasons for refusal.

Main Issues

5. The main issues are the effect of the proposed development on i) the supply of non-allocated employment sites; ii) character and appearance of the area; and iii) whether the occupants of the development would have adequate access to shops and services.

Reasons

6. The appeal site is located on the north side of Cowden Pound Road to Truggers Lane in Edenbridge and consists of five main buildings which are currently utilised as residential (Units D and E) and commercial use as workshops and storage areas relating to an agricultural machinery business (Units A, B and C). Since the Councils decision has been issued, Sevenoaks District Council have approved planning permission¹ for the demolition of the two existing residential units (Units D and E) and construction of two new replacement dwellings.

Supply of non-allocated employment sites

7. Policy EMP5 of the Sevenoaks District Council Allocations and Development Management Plan, adopted February 2015 (DMP) seeks to improve the quality and quantity of employment uses, providing amongst other matters, that the environment, local economy and local communities are protected. However, the policy does contain provision for the loss of non-allocated lawful businesses sites to other uses, subject to the demonstration of a lack of demand for the existing use and a full exploration of alternative employment generating uses through active marketing.
8. The Council raises concerns in respect to the marketing report providing an insufficient exploration of future or alternative employment options at the site. However, the appellant has submitted an updated marketing report² that confirms the site has been marketed unsuccessfully since March 2020, in excess of the 6-month required under DMP Policy EMP5.
9. The marketing evidence resulted in expressions of interest from over twenty interested parties, including other commercial uses which provide some evidence that a modest range of marketing for alternative uses has been undertaken by the appellant. The report highlighted that the potential buyers were deterred by factors such as the narrow roads that were unsuitable for commercial heavy good vehicles (HGV), and the current status and condition of the agricultural buildings not being suitable or cost effective for the conversion to an alternative business use. Several viewers were also looking at the premises in terms of a speculative residential use. As such, the sites viability for other commercial uses is questionable, given the lack of any specific demand for this particular employment unit as supported by the updated report.
10. Consequently, on the basis of the available evidence, I am persuaded that it is unlikely that a commercial use would be interested in occupying the appeal site. The appellant has demonstrated the site has been unsuccessfully marketed for re-use and there is no reasonable prospect for business use in the longer term in accordance with DMP Policy EMP5. The scheme would also be consistent with Paragraph 123 a) of the National Planning Policy Framework

¹ Sevenoaks District Council Planning Ref: 21/04043/FUL

² Strutt and Parker Updated Report dated 8th December 2020

2021 (the Framework) which has a provision for alternative uses on unallocated land for housing, providing it would not undermine key economic factors.

Character and appearance

11. The appeal site comprises of a group of agricultural buildings which have a functional and utilitarian appearance and are currently screened from public vantage points by a green boundary, which includes well-established trees and shrubs. The design of the appeal scheme would reduce the overall mass and bulk of the built development, following the demolition of Units D and E, and replacement with two new dwellings to the south of the site creating a courtyard area surrounded on four sides by dwellinghouses. The scheme would also break up the existing mass of Units A and B by providing gaps between these buildings.
12. While the new cladding and the introduction of domestic doors and windows would change the appearance of the existing agricultural structures somewhat, it would not alter their essential form and character. The overall design of the scheme could be readily assimilated into the existing locality, preserving the character of the area, and would be sensitive to the defining characteristics of the locality. The material details are highlighted on the plans but are matters that could be subject of a condition, to allow for further detailed design.
13. The proposal would not therefore harm the character and appearance of the surrounding area. As such, it would accord with the principles of DMP Policy EN1 which amongst other things, require all new development to be of high-quality design, responding to and respecting developments and character in the surrounding area. The proposal would also comply with Paragraph 130 c) of the Framework insofar as it requires development to be sympathetic to local character.

Location and access to shops and services

14. The Council highlight that the isolated nature of the appeal site would be contrary to Paragraphs 79, 110 and 112 of the Framework which amongst other things, seek to promote sustainable development in rural areas as well as promote sustainable transport modes.
15. The nearest settlements to the appeal site are Mark Beech and Chiddingstone Hoath. However, these are located some distance from the appeal site, and the route between them has no pavement or street lighting for a significant distance. Neither are there any bus stops located in close proximity to the appeal site. The general condition of local infrastructure, together with the distance, is such that travel to these settlements by more sustainable means such as walking, and cycling would be highly unlikely particularly in the dark or during inclement weather conditions. Consequently, the occupiers of the proposed development would likely rely on the private motor car to access services, employment, education and healthcare to support their day-to-day living.
16. Notwithstanding its remote location, the principle of residential development at the site has been established, given the existing residential dwellings on site at Units D and E and the recent planning permission granted for their redevelopment. Furthermore, the applicant draws my attention to the previous

Inspectors decision³ at the site where the Inspector opined that whilst a residential development in this location *'would be largely dependant on transport by car, both national and local planning policies allow for the possibility of converting existing rural buildings to residential use. These policies necessarily entail a degree of car traffic and some additional use of local services.'* It remains that there would be some conflict with the provisions of the Framework relating to sustainable access to shops and services, however I will return to consider the weight to be given to this conflict in the planning balance section below.

17. Whilst the Council's refusal refers to a conflict with DMP Policy EN1, this policy is of limited relevance to this main issue.

Other Matters

18. The Framework is supportive of development on previously developed land, and acknowledges that housing development on small sites, such as this, can make a valuable contribution to meeting the housing requirement of the area, which carries moderate weight in favour of the proposal.

Planning Obligations

19. The Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The provisions of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) and Paragraph 57 of the Framework state that planning obligations must only be sought where they meet all of the relevant tests.
20. The Section 106 agreement sets out the planning obligations which include the four units that are to be offered as affordable housing and £4,500 contribution to cover the costs of monitoring the implementation of the deed. The legal agreement is therefore necessary to make the development policy compliant, is related directly to the development and provides a fair and reasonable contribution from the appellant towards affordable housing in Sevenoaks.

Planning Balance

21. The Council accepts that it cannot demonstrate a 5-year supply of deliverable housing sites. Given the shortfall in housing land supply, the provisions of paragraph 11 d) of the Framework must be considered. These provisions do not apply where application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. However, in this case I have found that the proposal would not be inappropriate development in the Green Belt.
22. Therefore, paragraph 11 d) is engaged and there is a presumption in favour of the appeal proposal unless any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
23. I have identified some moderate conflict with Paragraphs 79, 110 and 112 of the Framework in that the site is in an isolated location and therefore does not promote sustainable transport modes.

³ Planning Appeal: APP/G2245/W/20/3244390

24. Set against this, the Framework seeks to significantly boost the supply of housing. The proposal would make use of previously developed land in the form of a non-designated employment site, adding additional dwellings including affordable units to the housing supply. Whilst this would be a relatively modest contribution it would be an important benefit, and I afford it great weight.
25. In the context of paragraph 11 d) of the Framework, I find that the adverse impacts of the proposal would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole. The proposal would therefore benefit from the presumption in favour of sustainable development within the Framework.

Conditions

26. I have considered the Councils suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency or clarity and to ensure that they meet the tests in the Framework.
27. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. I have imposed a condition in respect to material specification in order to ensure an acceptable visual effect.
28. In the interests of highway safety, I have imposed a requirement for a Construction Method Statement which is necessary to submit prior to the approved development commencing. In addition, I have imposed conditions in order to ensure that there is appropriate cycle parking provision and a suitable car parking layout, also in the interests of highway safety and the living conditions of future residents. I have also added that electric charging points are delivered to enable the use of electric vehicles to achieve sustainability objectives.
29. I have imposed a condition in respect to surface water drainage and foul and surface water sewerage disposal arrangements to reduce the risk of flooding and ensure that no additional pressure is placed on the existing drainage system. I have also added a condition pertaining to the submission of a verification report prior to occupation to ensure flooding risks are minimised.
30. To ensure that any contamination on the site is dealt with adequately in the interests of the health of future occupiers, a condition requiring surveys and remediation is imposed which is necessary to submit prior to the approved development commencing.
31. There is a need to protect biodiversity and hedgerows during the construction phase, given their ecological and amenity value, and also to retain and enhance these upon completion of development. Pre-commencement conditions are therefore necessary in this instance, and the conditions I have imposed incorporates the requirements set out in the Council's suggested conditions. There is also a need to provide details of hard and soft landscaping and provisions for minimising light spill in order to protect the character and appearance of the area and I have attached the appropriate conditions. A condition seeking to control external lighting is imposed for the same reason.

32. I have not imposed a condition relating to noise insulation assessment as it has not been adequately explained by the Council, that other existing regulations and controls do not satisfactorily deal with these matters. As such, this suggested condition is unnecessary.

Conclusion

33. Having considered all material considerations and other matters raised, for the reasons set out above, the proposal would accord with the development plan, when read as a whole and the Framework. I therefore conclude that the appeal should be allowed.

Robert Naylor

INSPECTOR

Richborough Estates

SCHEDULE OF 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: 3204 01 Rev F, 3204 02 Rev E, 3204 03 Rev D, 3204 04 Rev D, 3204 05 Rev D and 3204 06.
- 3) No development shall take place (excluding demolition) until details / samples of the materials to be used in the construction of the external surfaces of the proposal hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details / samples.
- 4) No development shall take place, including any works of demolition and site clearance, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The details shall provide for:
 - (a) Routing of construction and delivery vehicles to / from site,
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel,
 - (c) Timing of deliveries,
 - (d) Provision of wheel washing facilities,
 - (e) Temporary traffic management / signage,
 - (f) Details of site vehicle access,
 - (g) Details of storage of materials on site.The approved Construction Management Plan shall be adhered to throughout the construction works.
- 5) No part of the development hereby permitted shall be occupied until details of the provision of cycle parking on site have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking provision shall be retained as such thereafter.
- 6) No part of the development hereby permitted shall be occupied until car parking spaces and turning spaces have been provided in accordance with drawing no. 3204 01 Rev F and thereafter shall be kept available at all times for such use and for no other purpose.
- 7) No part of the development hereby permitted shall be occupied until details of the provision of electric vehicle charging points (1 per dwelling), including the proposed location, type and specifications shall be submitted to and approved by the Local Planning Authority. The charging points shall be installed in accordance with the approved details and shall be retained as such thereafter.
- 8) No development shall take place (excluding demolition) until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the principles contained within the Surface Water Drainage Strategy report by Motion

(01/10/2019) to a discharge rate agreed by the local planning authority and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of.

Surface water from the developed site shall not exceed the discharge rate of 3.64 l/s for all rainfall events. The drainage scheme shall also demonstrate (with reference to published guidance) that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters, appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme approved shall be implemented in full prior to first occupation of the development hereby approved and thereafter retained and maintained.

- 9) No development shall take place (excluding demolition) until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation of the development hereby approved.
- 10) No part of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the local planning authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 11) No development shall take place, including any works of demolition and site clearance, until a contaminated land assessment and associated remedial strategy, together with a timetable of works, shall be submitted to and approved by the Local Planning Authority. The details shall include:
 - a) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
 - b) Approved remediation works shall be carried out in full on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works

contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

c) Upon completion of the works, this condition shall not be discharged until a closure/validation report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure/validation report together with the necessary documentation detailing what waste materials have been removed from the site.

- 12) No development shall take place, including any works of demolition and site clearance, until an updated Biodiversity Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The updated enhancement plan shall include details of the garden area to provide short grassland with sections of wildflower meadow. The biodiversity enhancement measure plans and maintenance shall be implemented prior to first occupation of the development hereby approved. The scheme shall be maintained thereafter.
- 13) No development shall take place, including any works of demolition and site clearance, until, details of protection measures to the hedgerow to the southern boundary shall be submitted to the Local Planning Authority and approved in writing. The protection measures shall be installed prior to work commencing and maintained throughout the course of the development.
- 14) No part of the development hereby permitted shall be occupied until full details of both hard and soft landscaping and all means of enclosure works shall be submitted to and approved in writing by the Local Planning Authority. Those details shall include:
 - Planting plans (identifying existing planting and trees, plants and trees to be retained and new planting and trees),
 - Written specifications (including cultivation and other operations associated with tree, plant and grass establishment), - Schedules of new plants and trees (noting species, size of stock at time of planting and proposed number/densities where appropriate),
 - Details of all hard landscaping including but not limited to parking areas, pavements, public walkways and patios,
 - Details of all means of enclosure with location of all means of enclosure, and
 - A programme of implementation.

If any part of the approved landscaping scheme is removed, dies, becomes severely damaged or diseased within five years of completion of the development it shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority

within the next planting season. The approved details shall be maintained as such thereafter.

- 15) No part of the development hereby permitted shall be occupied until details of the proposed glazing designed to mitigated light spillage shall has been submitted to and approved in writing by the Local Planning Authority. The glazing shall be implemented as approved and retained thereafter.
- 16) No external lighting shall be installed on the site without prior written consent of the Local Planning Authority.

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