

PLANNING COMMITTEE - 18th June 2026

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information



Planning Inspectorate

Appeal Decision

Site visit made on 20 March 2026

by B. Johnson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2026

Appeal Ref: 6002842

Crockham Farmhouse, Crockham Lane, Hernhill, Kent ME13 9LB

- 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 Ms Sarah-Jane Killick against the decision of Swale Borough Council.
 - The application reference is 25/502388/FUL.
 - The development proposed is described as "Change of use of shepherds hut for use as a holiday let."
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Decision

1. The appeal is dismissed.

Procedural Matters, Background and Main Issues

2. I have omitted the term 'retrospective' from the description on the application form, as this does not constitute an act of development. I am satisfied that the revised description is an accurate description of the development sought, and I have determined the appeal on this basis.
3. At the time of my site visit the shepherds hut was in place. However, there was no indication that it was in use as a holiday let as sought by the appeal proposal.
4. I acknowledge the evidence about whether or not the shepherds hut is lawfully in place. I also note the evidence referring to the hut as 'mobile'. However, I have determined the appeal proposal before me which is described as "Change of use of shepherds hut for use as a holiday let", which would be permanent. It is open to the appellant to apply for a determination of existing or proposed lawfulness under section 191 or 192 of the Town and Country Planning Act (1990). It is not my place to determine such matters in determining an appeal under section 78 of the Act.
5. The main issues are therefore:
 - whether the appeal site would be a suitable location for the proposed development, with particular regard to the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the integrity of the Swale Special Protection Area (SPA).

Reasons*Location*

6. The appeal site comprises land adjacent to Crockham Farmhouse within the open countryside, outside of identified settlement boundaries. Access to the site is from Crockham Lane, separate to the farmhouse. The site currently comprises a shepherds hut and overgrown vegetation. The proposal involves the change of use of the shepherds hut to a visitor accommodation, with associated vehicle parking.
7. Policy ST 3 of Bearing Fruits 2031: the Swale Borough Local Plan (adopted July 2017) (the Local Plan) states that development in such locations will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
8. Furthermore, Policy DM 3 of the Local Plan requires proposals for rural based employment to ensure, amongst other things, that the design and layout is sympathetic to the rural location and appropriate to their context, and that they result in no significant harm to the historical, architectural, biodiversity, landscape or rural character of the area. Policy DM 3 also requires proposals for tourism and leisure development in rural locations to demonstrate that they would address identified needs not being met by existing facilities in the locality.
9. The use of the hut as a holiday let would give rise to regular arrivals and departures, together with domestic paraphernalia such as vehicles, bins, outdoor furniture and lighting. This would introduce urban domestic features into a prominent rural setting. While some boundary screening is provided by the existing fence and vegetation and more could be provided, the hut is sited on an elevated part of the site and would appear prominent within the surrounding area, particularly in views to the north and west. On the basis of the evidence before me I am not satisfied the proposal could be sufficiently screened or softened to avoid harm.
10. While there is established development in the vicinity, as well as a recently granted permission for an annexe to the farmhouse itself, this would not provide justification for further development and does not alter my conclusion, which I have determined based on the site-specific impacts which would arise from the proposal.
11. I acknowledge the comments that the proposed hut would be small scale and the suggestion that there would likely be a general demand for visitor accommodation given the area's popularity as a visitor destination. However, this does not constitute an assessment of need for tourist facilities and overall, the appellant has provided no substantive evidence regarding the need for additional tourist facilities and the degree to which existing facilities are addressing this need.
12. The policy is not specific regarding what such an assessment should entail, but this would reasonably include some assessment of the provision of tourist facilities in the local area alongside evidence detailing the operation and management of the proposed use which demonstrates how it would address identified needs. Consequently, in the absence of such evidence, the proposal would not address the policy requirements.

13. In conclusion, the proposal would not be in a suitable location for development due to its impact on the character and appearance of the area and would therefore not be in accordance with Policies ST 1, ST 3 and DM 3 of the Local Plan. These policies, amongst other things, seek development that accords with the Local Plan settlement strategy and is sympathetic to the rural location and appropriate to its context.
14. The proposal would also not accord with paragraphs 88 and 89 of the National Planning Policy Framework (December 2024) (the Framework) as it would not constitute sustainable rural tourism that respects the character of the countryside or be sensitive to its surroundings.

Integrity of the Swale SPA

15. The appeal site lies within the 6 kilometre zone of influence of the Swale SPA. The SPA supports populations of the dark-bellied brent goose and dunlin, as well as other breeding bird and waterbird assemblage, which are the qualifying features which justify the designation of the SPA. The SPA's conservation objectives aim to ensure that the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring (amongst other things) the extent and distribution of the habitats, the population and the distribution of the qualifying features within the site.
16. It has been established that the introduction of new tourist facilities to the area has the potential to increase the recreational activity within the SPA through increased footfall, dog walking activities and additional vehicle movements. When considered either alone or in combination with other plans and projects, this is likely to have a significant effect on the SPA. The proposal would create new tourist accommodation and therefore there would be a likely significant effect on the SPA. As a result, I must undertake an appropriate assessment as the competent authority, in accordance with my duty under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
17. Policy DM 28 of the Local Plan ensures that plans and projects proceed only when in accordance with relevant Directives, Conventions and Regulations. When the proposed development will have an adverse effect on the integrity of a European site, planning permission will only be granted in exceptional circumstances, where there are no less ecologically damaging alternatives, there are imperative reasons of overriding public interest and damage can be fully compensated.
18. The Council, along with other North Kent authorities, has adopted the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate the impacts arising from recreational disturbance on the SPA. The SAMMS requires a financial contribution, typically secured through legal agreement, which would be put toward various mitigation measures including management of visitors around popular locations, access infrastructure, signage and monitoring of the impacts.
19. The application was refused in part due to the absence of a payment towards SAMMS measures or the lack of a planning obligation to secure payment. I have not been provided with proof of payment or a planning obligation as part of this appeal.

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20. Paragraph 005 of the 'Use of planning conditions' Planning Practice Guidance (PPG) is clear that positively worded conditions which require the payment of money should not be imposed. Paragraph 010 of the PPG also advises that a positively worded condition which requires the applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990, or an agreement under other powers, is unlikely to pass the test of enforceability. Paragraph 010 goes on to advise that negatively worded conditions requiring a planning obligation to be entered into should only be used in exceptional circumstances. No justification of such circumstances has been provided to me in this case, therefore it would not be appropriate to impose a condition requiring a planning obligation or other agreement to be entered into, for the payment of SAMMS measures.
21. As the competent authority, I find that, in the absence of any measures to mitigate adverse impacts on the SPA, the proposal would have an adverse effect on the integrity of the SPA and would not be in accordance with the Habitats Regulations, Policies DM 14, DM 28 and ST 1 of the Local Plan or section 15 of the Framework which seeks to conserve and enhance the natural environment.
22. The evidence before me does not indicate that there are alternative solutions to the proposed development, nor have I been provided with any imperative reasons of overriding public interest. In such circumstances, the Habitats Regulations indicate that permission must not be granted.

Other Matters

23. The proposal would provide an economic benefit which accords with section 6 of the Framework. However, the small scale of the proposal and the lack of information to quantify the benefits means this would only have limited weight.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other material considerations which indicate a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

B. Johnson

INSPECTOR