
Appeal Decision

Site visit made on 12 December 2016

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 January 2017

Appeal Ref: APP/U2235/W/16/3156505

The Yard, Hermitage Lane, Boughton Monchelsea, Kent ME17 4DA

- 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 Trevor Jenkins of Homeleigh Timber and Building Supplies Ltd against the decision of Maidstone Borough Council.
 - The application Ref 16/503052/FULL, dated 7 April 2016, was refused by notice dated 11 July 2016.
 - The development proposed is demolition of existing building and erection of 4 No. semi-detached cottages with amenity space and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has put forward amended drawings, reference DHA/11144/08A & 17 as revisions to drawing numbers DHA/11144/08 & 16. These amendments relate to the eaves and ridge height of the proposed development and show their corrected relationship with the adjacent terrace, Lewis Row Cottages. This information does not significantly change the proposal and, as such, the drawings would not, in my view, prejudice the interests of third parties. For this reason I have had regard to these drawings.

Main Issues

3. The main issues in this case are: -
 - a) The effect of the proposal upon the character and appearance of the area; and
 - b) Whether the proposal is in an inappropriate location for new residential development.

Reasons

Character and appearance of the area

4. Although the appeal site is located within a stretch of residential development to the south side of Hermitage Lane, the site lies well outside the any settlement as defined in the Maidstone Borough-Wide Local Plan 2000 (the Local Plan). The site is, therefore, in the countryside. Policy ENV28 of the Local Plan applies and seeks to protect the character and appearance of the
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- area. Policy H32 allows for the replacement of a dwelling in the countryside but requires the dwelling to be no more visually intrusive than that of the original dwelling, amongst other criteria.
5. The appeal site comprises a part double/part single storey barn style building containing commercial and residential uses, a storage building and a yard with open storage taking place. The appeal site is positioned between a terrace of two-storey dwelling to the east, Lewis Row Cottages, and a loose scattering of dwellings and outbuildings to the west. The surrounding area is predominantly open farmland. Hermitage Lane is a narrow country lane. With the exception of the closeboarded fence along the appeal site frontage and the open front gardens of Lewis Row Cottages the lane is mainly bordered by high hedgerows.
 6. The main barn style building on site is functional by design and is primarily single storey with low eaves height, with the exception of the double storey central element. It is positioned to the western half of the appeal site and is set back from Hermitage Lane behind hardsurfacing and the closeboarded front boundary. To the eastern part the site is mainly hardsurfaced, although a storage building and shipping container are positioned adjacent to the southern boundary. Although I observed timber pallets, timber planks and filled bulk storage bags, amongst other building materials, stored within the open part of the site, the eastern half is largely free from built development apart from the existing low-key structures. Whilst I acknowledge the amount and height of open storage will vary from time-to-time, a large area of the hardsurfacing will remain open to enable access to the main building and residential units and manoeuvring by HGV's and other associated vehicles.
 7. The proposal is to remove the part double/part single storey building and shipping container and erect 4 semi-detached dwellings across the full width of the site retaining the storage building. Each property would have two parking space within the front garden areas with direct access onto Hermitage Lane. Although the development would replace the main building the proposal would create more substantial built development of a sizeable footprint and height to the eastern half of the appeal site. This would consolidate the gap between the existing building and Lewis Row Cottages. Whilst the existing main building has a central double storey element, a larger portion of this building is single storey, although I note planning permissions are in place to replace the roof at the southern side with dual pitched roofs over this single storey element. The ridge of the proposed development would be taller than that of this existing building.
 8. The appellant has drawn attention to prior approvals that are in place enabling four dwellings to be created at the site, two of which have taken place. Although the development would replace these dwellings, the size and scale of the proposed dwellings would be substantially larger than that of the units allowed under the prior approval procedure.
 9. The appearance of the development would be one of substantial houses with open frontages comprising surfaced parking areas abutting the highway. Whilst the design approach would reflect local vernacular and density of development in the area, along with the set back, height and appearance of the adjacent Lewis Row Cottages, the development would introduce an urbanising development over the entire site. Such a development would result in a diminution of the rural character and appearance of this location and the

country lane. In addition the development would erode the openness to the eastern part of the site. The consolidation of further residential development alongside Lewis Row Cottages would be visually substantially more intrusive.

10. Whilst the development would not be readily visible from country highways or Public Rights of Way in the wider area or extend into the adjoining open countryside, the site would be clearly visible from that part of Hermitage Lane immediately in the vicinity of the appeal site, despite being screened to some extent by existing trees and vegetation to the west and Lewis Row Cottage to the east.
11. For these reasons, the proposed development would conflict with Policies ENV28 and H32 of the Local Plan which seeks to avoid development which would harm the character and appearance of the countryside and that would be more visually intrusive to that of the existing dwellings. The proposed development would also conflict with paragraphs 17 and 109 of the National Planning Policy Framework (the Framework) that recognise the intrinsic character and beauty of the countryside.

Location for new residential development

12. The site lies outside the development boundary of a settlement as defined in the Maidstone Borough-Wide Local Plan 2000 (the Local Plan). The appellants concede this within their statement. Consequently the site is defined as countryside and Policy ENV28 of the Local Plan applies, which seeks to protect its character and appearance and restricts housing development to certain limited categories, none of which are applicable in this case.
13. However, there is a dispute about whether the Council is able to demonstrate a 5 year supply of housing land. Paragraph 47 of the Framework and, in such circumstances, paragraph 49 instructs that policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year of deliverable housing sites. The presumption in favour of sustainable development at paragraph 14 of the Framework requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
14. I am aware of the Council's assertion that it has a five year housing land supply but this is currently under examination and at this point in time I am unable to conclude that a five year supply is in place. Therefore, only little weight can be given to Policy ENV28 insofar as it relates to the settlement boundaries. The appellants contest that not all the allocated sites are likely to gain planning permission and as such, there is a need for windfall sites, such as this, to come forward. Even if the appellant is right on this point the development needs to be considered in terms of paragraph 14 of the Framework.
15. The proposal would utilise a previously developed site and provide four family sized homes within the Borough contributing to the overall housing supply. Such benefits would be consistent with the social and economic dimension of paragraph 7 of the Framework, although they would in my view be relatively limited. Notwithstanding this, the proposed development would harmfully alter the character and appearance of the area and would not satisfy the environmental dimension of paragraph 7 of the Framework with regard to the development's environmental impact. I find that the harm to the environment

would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

16. I note that the Draft Maidstone Local Plan (the Draft Local Plan) has been submitted for Examination but the Examination itself is on-going. With due regard to paragraph 216 of the Framework, the plan is clearly advancing towards potential adoption although I am unaware of the extent of unresolved objections to the policies cited by the Council. As a consequence I give limited weight to Policies SP17, DM1, DM3, DM4, DM34 and DM36 of the Draft Local Plan.

Other Matters

17. The appellant has drawn my attention to a number of planning appeals for housing in the Borough. The appeal at Ham Lane, Lenham (appeal ref APP/U2235/W/15/3131945) related to a substantially larger development in a different location. Although the appeal at Woodford Farm, Maidstone Road, Staplehurst (appeal ref APP/U2235/W/16/3142747) is similar in that the site comprised an existing commercial use, the context of the existing development that surrounds this differs. I therefore consider these examples are not directly comparable to the circumstances of this site and this appeal can and should be considered in its own right. I have also taken into account the *Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East, SSCLG* [2016] EWCA Civ 168 Court of Appeal judgement in reaching my decision.
18. I acknowledge that safe access could be achieved on to Hermitage Lane. I also note that the existing building at the site is not Listed and that the living conditions of neighbouring occupiers would not be compromised. Indeed the reduction in HGV movements could be said to be an improvement to the living conditions of adjoining occupiers. However, these considerations do not outweigh the harm identified above or justify the proposal.

Conclusions

19. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR