

---

## Appeal Decision

Site visit made on 4 January 2017

**by Kenneth Stone BSc Hons DipTP MRTPI**

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

**Decision date: 20th January 2017**

---

**Appeal Ref: APP/E2205/W/16/3159815**

**Land next to Courtside, Court Lodge Farm, Newchurch Road, Bilsington  
TN25 7JY**

- 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 William Maylam against the decision of Ashford Borough Council.
  - The application Ref 15/01579/AS, dated 3 December 2015, was refused by notice dated 20 May 2016.
  - The development proposed is the erection of a single dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The Council note that the appeal papers include an alternative scheme, largely the same as the proposed scheme but with the building set further back into the plot. The Council are of the view this is materially different to the proposed scheme and has not been the subject of consultation. The appeal papers include a number of different iterations and schemes that have either been before the Council or produced by the appellant but not put before the Council. For the sake of clarity, and in the interests of fairness, I have determined the appeal on the basis of the scheme considered by the Council, which was the subject of public consultation and which is the subject of its decision to refuse permission.
3. I note the description of development on the application form is not the same as that on the Council's decision notice. The description on the original application form contains descriptive references that do not add to the understanding of the nature of development. In that regard the Council's description on the decision notice more accurately and concisely describes the development and I have used this in my banner heading above.

### Main Issues

4. The main issue is the effect of the proposed development on the character and appearance of the area including the Bilsington Conservation Area and Willow Trees, a Grade II listed building.

### Reasons

5. The Council accept that they cannot demonstrate a five year supply of deliverable housing sites and therefore accept that paragraphs 49 and 14 of
-

the National Planning Policy Framework (the Framework) are engaged. Paragraph 49 advises that relevant policies for the supply of housing should not be considered up-to-date where the Council does not have a five year supply of deliverable housing sites. Paragraph 14 advises, amongst other matters, that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. Footnote 9 gives examples of restrictive policies including policies related to designated heritage assets, which include listed buildings and conservation areas.

6. In the context of this appeal the policies for housing supply, which would include policies TS1 and TS2 in the Tenderden and Rural sites Development Plan Document, would therefore be out of date. Bilsington is not referenced in TS1 which identifies the villages in the rural area where minor residential development or infilling should take place and the development would not meet the criteria for new residential development laid out in policy TS2. The development would therefore not comply with these development plan policies, however given the five year land supply position and advice in the Framework I give this conflict limited weight. The Council is still some way off from adopting its emerging development plan and has not identified how it is addressing the matter of its lack of a five year supply of deliverable sites.
7. I have not been provided with a Conservation Area Appraisal or Management Plan and there is no general description of the elements that contribute to the significance of the Conservation Area. From my observations The Bilsington Conservation Area derives its significance from the layout of the historic village core, the listed buildings and structures within the conservation area, the relatively open pattern of development, cricket square and open space, including the monument opposite the site, which combine to provide a pleasant attractive entrance to the village.
8. Willow Tree is an early to mid C19 timber framed and weather boarded property with a red brick stack and slate roof. It derives its significance from the architectural quality, appearance and historic development providing evidence of the evolution of the village.
9. Willow Tree holds a relatively important and prominent position, being one of the first properties on the entrance to the village. Whilst it is set within a curtilage with trees marking the boundary it is still visible and appears to have an aspect that is enhanced by the adjacent open land and landscaped frontage on the approaches into the village, where there is only limited modern development.
10. The one exception to this is the modern bungalow of Courtside, which although set back from the road some distance and being a bungalow, which reduces its impact, does intrude into that setting. The farm buildings of Court Lodge Farm are also somewhat intrusive.
11. The whole of the proposed property would be sited in front of the forward most part of Courtside and it would be closer to the road than Willow Tree and the Court Lodge Farm buildings. In my view this would intrude into the surroundings in which Willow Tree is experienced and therefore into its setting. It would directly intrude into views of the listed building when approaching the

- village. The view, which is presently across an open area of land, would be obstructed by a new two storey dwelling and the experience of the listed building would be diminished by the obstruction.
12. The open aspect to the front of courtside contributes to the character and appearance of this part of the conservation area as well as the setting of the listed building and therefore this harm would also affect the conservation area.
  13. The proposed dwelling is narrow and elongated and sits in a narrow and elongated plot. Given its relationship with Courtside the two properties would be read close together and the proposed dwelling would dominate the space between Courtside and Willow Tree with its two storey form and long flank elevation being fully exposed. This would give this location an appearance of more intense development, which would appear somewhat cramped given the existing more open aspects of the surroundings and the existing spaces between properties at this end of the road.
  14. Whilst the appellant suggests that the general materials, roof pitches, roof covering and scale of the property reflect those in the surroundings these do not overcome the concerns that I have identified with the development as detailed above.
  15. I understand that there was historically a school building and school house on the site however there is no significant visible evidence of such buildings or structures remaining on the site and the proposed building does not seek to replicate those structures. I have no evidence before me of their contribution to the significance of the heritage assets I am considering, and their relationship with those assets, or whether the proposal could be shown to better reveal some historic significance. In the absence of such evidence I do not place significant weight on that matter.
  16. Paragraph 132 of the Framework advises that great weight should be given to the conservation of heritage assets and that significance can be harmed through alteration of the asset or development within its setting. Furthermore it advises that as heritage assets are irreplaceable any harm should require clear and convincing justification.
  17. I have concluded that the proposal would result in harm to the setting of Willow Tree and to the character and appearance of the Bilsington Conservation Area. This harm derives from the positioning of the proposed house, its scale, forward position and relationship with surrounding buildings, combining to provide a cramped and intrusive development. Whilst I have identified harm, in the context of the Framework I am of the view this is less than substantial. Paragraph 134 of the Framework therefore requires that I balance this harm against the public benefits of the scheme, including securing its optimum viable use.
  18. The main benefit deriving from the scheme would be the provision of a new dwelling the weight attributable to which is increased by the lack of a five year housing land supply. However, the proposal would only provide for one property and this would not significantly address that matter of under supply. Overall I give considerable weight and importance to the harm to the heritage assets and this is not outweighed by the public benefits associated with one new dwelling.

19. The proposal would result in development that would be harmful to the character and appearance of the area, would adversely affect heritage assets, and would thereby not create a high quality built environment or enhance the built or historic environment. It would therefore conflict with policy CS1 of the Ashford Borough Core Strategy and Policy EN16 of the Borough Local Plan 2000 saved policies. It would therefore also not fulfil the environmental role or social role of sustainable development as set out in the Framework. Moreover, as I have concluded that there is harm to heritage assets and that that harm is not outweighed by public benefits there are policies in the Framework that would indicate development should be restricted. Returning to paragraph 14 and footnote 9 of the Framework that also leads to a conclusion that the proposal does not represent sustainable development.

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

*Kenneth Stone*

INSPECTOR