
Appeal Decision

Site visit made on 27 February 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/U2235/W/16/3164069

Land east of Goddington Lane, Harrietsham, Kent ME17 1JX

- 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 R James against the decision of Maidstone Borough Council.
 - The application Ref 16/500454/FULL, dated 20 January 2016, was refused by notice dated 12 October 2016.
 - The development proposed is the construction of 2 dwellings including landscaping and access provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are as follows;
 - The effects of the proposal on the countryside
 - The effects on wildlife
 - Whether the site can be acceptably drained
 - The effects of the proposal on the adjacent highway
 - Whether the proposed dwellings would be subjected to unreasonable noise or vibration.

Reasons

The effects of the proposal on the Countryside

3. The appeal site is an open area of land located on the east side of Goddington Lane. To the south are dwellings fronting onto Goddington Lane and to the north and east is open land.
4. The appeal site is outside the village confines of Harrietsham as defined in the Maidstone Borough-Wide Local Plan 2000 (LP). Policy ENV28 of the LP prevents development in the countryside which would harm the character and appearance of the area or amenities of neighbours, and confines development to a number of specific categories, none of which apply to the appeal scheme. One of the aims of the policy is to protect the undeveloped rural character of the countryside (whilst allowing for development that needs a countryside

location). It seems clear that the proposal is contrary to Policy ENV28 and I consider that it would be harmful to the Countryside as a result.

5. The appellant considers that little or no weight should be placed on Policy ENV28 as it is considered that the Council is unable to demonstrate a suitable supply of housing land and reference is made to the emerging (and so, unadopted) Maidstone Borough Local Plan 2011 to 2031. The appellant argues that as the emerging plan has not been adopted, the figures presented by the Council cannot be said to have been thoroughly tested, and so cannot be relied upon.
6. The Council has set out in its documents supporting information, including the Inspector's Interim Findings from the Examination of the emerging plan (dated 22 December 2016) wherein it is concluded that the information presented at the Examination, plus alterations proposed, would result in a supply amounting to 6.11 years; although it is acknowledged that consultation on the modifications had yet to take place. Even so, prior to any such modifications, the Council was able to demonstrate 5.12 years supply of housing land. I note also that this was broadly acknowledged in a recent appeal decision in the Borough (Ref: APP/U2235/W/16/3151144). In response the appellant refers to a different decision (Ref APP/P0240/W/16/3159535) wherein a similar issue was in question. However, I find that decision to be quite different as it was a case wherein the Council accepted that it could not demonstrate a suitable supply of housing sites and no detailed evidence was put forward. The case before me includes a considerable amount of evidence, some prepared for the examination of the emerging plan and where that Inspector appears to give some support for the Council's stance and proposes alterations which would strengthen it. In the circumstances, I find it highly likely that the Council can demonstrate a suitable supply of housing land.
7. As a consequence, I find the Council's position in relation to the open countryside to be justified and I consider the principle of the development to be unacceptable. In addition, the proposal is for 2 sizeable detached houses with large garages; having considered the likely effects in relation to Policy ENV28, I consider that not only is the principle unacceptable but that the form of the proposed development would harm the character and appearance of the area. I have taken account of the appellant's comments in relation to the proximity of other houses and the location of the site in relation to the remainder of the village but I find nothing which outweighs my findings on this issue.

The effects on wildlife

8. The appeal site forms part of the larger 'Chalk Stream and Goddington Wood Local Wildlife Site' (LWS). The appellant has submitted a Preliminary Ecological Assessment in relation to the appeal site. Amongst other things, it states that the likelihood of Great Crested Newts (GCN) being present is 'high', based on records and the surrounding landscape. It also states that other amphibians may be present. The Assessment also notes that the site has a high potential for supporting birds and some potential for other species. The Assessment recommends that surveys should be undertaken to establish the presence of GCNs in nearby ponds and the potential for use of the appeal site.
9. The appellant has also submitted a subsequent document entitled '*Potential Impacts on Great Crested Newts: Review of Existing Information*'. This concludes that the presence of GCNs within 250m of the site is highly unlikely

and considers that a Method Statement for minimising the impact on GCN is appropriate and that further surveys are not justified.

10. Circular 6/2005 '*Biodiversity and Geological Conservation*' indicates that, where there is a likelihood of the presence of a protected species, surveys should be carried out before planning permission is granted and that surveys should only be required by conditions in exceptional circumstances. Whilst I have noted the contents of the appellant's second report, I consider that there is sufficient justification raised in the other appeal submissions, including his own first report, to conclude that there is a sufficient likelihood of protected species being present on the site to warrant the need for surveys. Without this, I am concerned that the proposal could give rise to harm to protected species and would compromise the wildlife value of the site.

Whether the site can be acceptably drained

11. The site is located within Source Protection Zone 1 and 2 and is therefore in a very sensitive location in relation to groundwater protection. In its initial response the Environment Agency (EA) requested details of how effluent and surface water would be dealt with at the site. These details have been provided by the appellant and EA have subsequently withdrawn their objection, subject to the imposition of conditions. In relation to surface water, the suggested measures include sustainable drainage utilising permeable paving, infiltration, substrates to act as filters for particulates and pollutants and other measures.
12. With regard to foul drainage, a specialist package treatment plant is indicated and the appellants state that they recognise that EA would be required to approve such details.
13. Whilst I can understand the fact that the Council has exercised a cautious approach due to the sensitivity of the water environment, on the basis of the evidence before me I am content that suitably worded conditions could be imposed, if permission were to be granted, which would prevent development proceeding in the absence of the approval of such details.

The effects of the proposal on the adjacent highway

14. The Council confirm that the reason for refusal based on a 'holding objection' raised by Kent County Council as Highways authority. The substance of the objection is that it was considered that a construction management plan is required, measures to prevent discharge of water onto the highway are required and cross-sectional details of the proposed access showing gradients and the relationship with the stream are necessary.
15. From what I have seen on the site and from the information before me, there appears to be no reason why these matters could not be dealt with by suitable conditions, if the appeal had been successful.

Noise and Vibration

16. The appellant has submitted 'noise reduction methods' which are intended to address the Council's concerns, although the Council maintains its stance; that is that it has not been demonstrated that the proposed residents would not be subjected to unreasonable noise and vibration from the adjacent railway line. The appellant has not submitted any expert assessment of the noise

environment or of the effects of any likely vibrations. Without such an assessment, it is not possible to conclude that any specific measures would reduce noise to an acceptable level within the proposed buildings. This would also need to address the effects of noise on the amenity space for the houses, and give consideration to measures to reduce noise here, if necessary. I was able to experience the passage of a train whilst at my site visit and it seems to me, and in the absence of any technical evidence, that this is a matter that should be addressed prior to a decision being made as there is the potential for noise/vibration which it may not be feasible to reduce to an acceptable level.

Conclusions

17. I have taken account of all other matters including the fact that the proposal would provide additional homes and I have taken account of the appellant's arguments in relation to the character of the area. However, for the reasons given above, I find that the proposal would harm the open countryside, the wildlife value of the site and there is the likelihood that, if the proposal were to go ahead, the future residents may be subjected to unreasonable levels of noise/vibration from the adjacent railway line. As a consequence, I conclude that the proposal does not represent sustainable development. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR