
Appeal Decision

Site visit made on 13 March 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 21 April 2017

Appeal Ref: APP/X2220/W/16/3160915

Land SW of Fieldings, Stoneheap Road, East Studdal, Dover CT15 5BU

- 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 Allan Dewar against the decision of Dover District Council.
 - The application Ref DOV/16/00057, dated 11 January 2016, was refused by notice dated 25 April 2016.
 - The development proposed is one single self-build 'Meisterstuck Haus' eco home and garage with landscaping and ecological enhancements.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on highway safety; and
 - the effect of the proposal on ecology/biodiversity.

Reasons

Background

3. The proposal is for one self-build 'Meisterstuck Haus' eco-home and garage on a roughly square site on the south eastern side of Stoneheap Road, one of the approach roads into the village. The site, formerly paddock/garden land associated with the property Fieldings to the north east, rises up from the road with the long garden behind Halfacre House in Downs Road to the south east and an overgrown paddock associated with Orchard House, also on Downs Road, to the south west. On the opposite side of the road there is a scatter of residential properties of different types including a bungalow, large 1½ storey dwelling and a two storey detached house.
4. In the settlement hierarchy set out in the Dover District Core Strategy 2010 (DDCS) East Studdal is defined as a village 'suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community'. As such the village is considered a sufficiently sustainable location for some limited development and the Dover Land Allocations Local Plan 2015 (DLALP) allocates the nursery site in the village for about 30 additional dwellings. However, the defined settlement boundary which was adjusted

slightly in the DLALP¹ runs tightly behind the frontage development along Downs Road some distance to the south. Consequently the appeal site lies in the countryside for policy purposes and Policies DM1 and DM15 apply which restrict new housing to that which functionally requires a rural location.

5. At the time the application was determined – April 2016 - the Council could not demonstrate a five year supply of deliverable housing sites assessed against the housing requirements of the DDCCS. If there is no five year supply, policies for the supply of housing should not be considered up to date and Policies DM1 and DM15 can only be given limited weight. However, the Council now claim 6.02 years supply based on the objectively assessed need (OAN) for housing recommended in a Strategic Housing Market Assessment published in February 2017. This OAN figure will feed into a review of the DDCCS but is a long way off independent validation and at this time the DDCCS remains in force. Given the complexity of the issues it is not possible to determine whether the six year claim is reasonable as part of this appeal but, as explained in the conclusion, this is not necessary to determine the case.

Character and appearance

6. East Studdal is a linear village with its main built-up area along both sides of Downs Road together with Downs Close and some frontage development at the beginning of Strakers Hill and Homestead Lane. From its junction with Downs Road, Stoneheap Road is a narrow, single carriageway lane with hedges both sides, no footways and only limited street lighting. As a result the road has the character of an unspoilt rural lane with the scattered residential development in the vicinity of the appeal site being detached from the main village.
7. On the site visit it was clear that a significant number of trees have recently been cut down within the appeal site. Despite this, the site retains boundary screening and an undeveloped, rural character. The proposed dwelling would be set back and have a relatively low profile single storey appearance when seen from the road. However, it would also involve a new access, extensive gravel driveway and wide double garage with visibility splays along the frontage in both directions. A hedgerow is proposed behind the splays but overall the built up residential nature of the site would be clearly apparent to passers-by in sharp contrast to the existing undeveloped paddock. Despite Fieldings to the north east and the housing opposite, the proposal would noticeably erode the verdant character of the approach to the village and consolidate the existing built development along both sides of the road. With no buildings immediately to the south east or south west, the proposal cannot be considered as infilling in an existing built up area.
8. For these reasons the proposal would significantly harm the character and appearance of the approach to the village in conflict with Policies DM1 and DM15 of the DDCCS. These seek to prevent development outside settlement boundaries and protect the character and appearance of the countryside.

Highway safety

9. Stoneheap Road is a relatively narrow but lightly trafficked rural lane which is subject to a 30 mph speed limit where it passes the appeal site. The proposed access would be towards one side of the site frontage where a detailed plan

¹ contrary to the appellant's claim that it has not been reviewed since 2002

submitted by the appellant demonstrates that a 25 m visibility splay could be achieved to the north and a 30 m splay to the south. The Council claims that the splay to the north would be limited to 13 m but this is not supported by an accurate plan. The relevant visibility standard in the Manual for Streets, 43 m, would be an excessive requirement in this quiet rural location. It is noticeable that nearby residential accesses have poor visibility, almost none in some cases, but this has not resulted in any recorded accidents in the last five years.

10. The highway boundary to the north is marked by a hedge which may have overgrown the verge to some extent and the precise carriageway edge is also unclear. Whilst the visibility distance as seen on site appears less than claimed by the appellant it would be better than many other accesses nearby. The new access would also be amongst existing residential access points on the approach to the village where primarily local drivers could be expected to adjust to the local conditions and reduce speed accordingly. The new residents emerging onto the lane could also be expected to take the necessary care. Taking all the circumstances into account, highway safety is unlikely to be so significantly reduced by the site access as to justify refusal on this ground.
11. For these reasons the proposal would not significantly increase highway safety risks and would therefore comply with paragraph 32 of the National Planning Policy Framework (NPPF) which aims to achieve safe and suitable access to development sites.

Ecology/biodiversity

12. The Phase 1/Ecological Scoping Survey submitted by the appellant as part of the appeal addresses most of the Council's concern that insufficient information was available to assess the impact of the proposal on ecological habitats and/or protected species. However, the survey concludes that there is good potential for reptile species on the site and a presence/absence survey should be undertaken prior to site development. The appellant argues that appropriate mitigation and habitat enhancement measures can be put in place depending on the results of the presence/absence survey, but this approach is contrary to the advice in Circular 6/2005. This states that the presence or otherwise of protected species, and the extent to which they may be affected by the proposed development, should be established *before* planning permission is granted. Consequently at present it is not clear that protected species would be adequately safeguarded by the proposal. This would be contrary to Policy DM15 of the DDCCS, paragraph 118 of the NPPF and Circular 6/2005 which seek to safeguard ecological habitats and protected species.

Other matters

13. The Council argue that the proposal would involve the loss of a frontage hedge contrary to Policy CO8 of the Dover District Local Plan 2002 but there was no hedge apparent on the date of the site visit. The Council also contend that the proposal would be in an unsustainable location where it would generate travel contrary to Policy DM11 of the DDCCS, but this is inconsistent with the decision to allocate a site for additional housing elsewhere in the village. On the other hand, the appellant argues that the site once formed part of the curtilage of Fieldings and thus meets the definition of previously developed land because it

is outside a built up area². However, the land has been severed from Fieldings for some time and has blended into its undeveloped surroundings.

Conclusion

14. It is appreciated that the appellants have strong local connections to the village, that the individually designed dwelling would be self-built to the highest environmental and lifetime home standards, that it would add to the variety and mix of housing in the village and would represent further organic growth along its roads. The scheme is supported by the Parish Council. There would also be ecological enhancements at the site and further boundary planting.
15. The proposal would provide an additional dwelling on a windfall site which would have social and economic benefits for the village and make a small but useful contribution to housing supply. There are other benefits in favour of the scheme as set out in the previous paragraph. However, these benefits, even in combination, are significantly and demonstrably outweighed by the adverse impacts of the proposal, namely the environmental impact on the character and appearance of the area and possible effects on protected species. As a result, the proposal cannot be considered as a fully sustainable development and the presumption in favour of such development does not apply even if there is no five year supply of housing land in the district.
16. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

² Although this conflicts with the claim that the proposal represents infilling *within* a built up area.