

# Appeal Decision

Site visit made on 21 February 2017

**by Kevin Gleeson BA MCD MRTPI**

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

**Decision date: 4 May 2017**

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**Appeal Ref: APP/J2210/W/16/3162734**

**Bredlands Lane, Sturry CT2 0HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Andrew Hennell against the decision of Canterbury City Council.
  - The application Ref 16/01487, dated 4 July 2016, was refused by notice dated 30 August 2016.
  - The development proposed is construction of three detached houses with associated garages and access arrangements.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for the erection of three detached dwellings. The application was submitted in outline with all matters reserved.

## Main Issues

3. The main issues are:
  - whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development;
  - whether the proposed development provides appropriate mitigation measures in respect of the Thanet Coast and Sandwich Bay Special Protection Area (SPA); and
  - the effect of the proposal on protected species / biodiversity in the vicinity of the appeal site.

## Reasons

### *Suitability of the Site for Housing*

4. The site is an overgrown and undeveloped area of land to the west of a complex of residential buildings including converted barns and a farm house. To the north west of the site is Greenways, a further residential property. To the north, west and south of the appeal site are fields. Further to the south is the recently developed Spires Academy whilst on the opposite side of Bredlands Lane is the former school site which is currently derelict and to the north of that site is a coach depot.
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5. The appeal site is outside of any settlement boundary in a rural area and some distance from the existing residential development at Hersden. On this basis the proposal would be contrary to Policies H1 and H9 of the Canterbury District Local Plan, 2006 (the Local Plan) which focus new housing development within urban areas, permitting residential development on allocated sites and non-identified sites on previously developed land within urban areas. New development outside of villages will only be permitted in exceptional circumstances.
6. The proposal would also be contrary to Policy SP4 of the emerging Canterbury District Local Plan (the eCDLP) which establishes a strategic approach to development focused on urban areas. This indicates that within the open countryside housing will normally be limited to that required for agriculture and forestry purposes.
7. Policy SP3 of the eCDLP allocates strategic sites for development including Site 8 - Land North of Hersden which is allocated for 800 dwellings. Whilst this site is close to the appeal site, and visible from it, being to the east and north of Bredlands Farmhouse and neighbouring buildings it is not contiguous with the appeal site. Elsewhere, planning permission has been granted for a residential development of 80 dwellings on the former school site on the western side of Bredlands Lane.
8. As the appellant identified, Policy SP4 of the eCDLP indicates that in addition to the development allocations the eCDLP also makes provision for small scale new housing appropriate to the character and built form of Hersden and Sturry. Notwithstanding the appellant's comments about the transport accessibility which the appeal site provides and the range of local services within reasonable walking distance I find that the appeal site is relatively isolated, the proposals would not relate well to neighbouring residential sites and would be harmful to the character and built form of these areas.
9. The appellant also indicated that work undertaken as part of the eCDLP indicated that the appeal site may be suitable for 2-6 units. However, the appeal site has not been allocated for residential development and I find no reasons to depart from the approach to housing delivery set out in the eCDLP.
10. Policy SP1 of the eCDLP sets out a presumption in favour of sustainable development in line with the advice of the National Planning Policy Framework (the Framework). As the approach to development in rural areas set out in the eCDLP is consistent with that in the Framework I attach significant weight to Policies SP4 and SP1 in accordance with the advice of paragraph 216 of the Framework. The proposed development would therefore result in a harmful and unsustainable form of development in a rural location for which no exceptional circumstances have been demonstrated. As a consequence it would not be sustainable development.
11. On this basis I find that the proposed development would not be an appropriate site for housing and would be contrary to Policies H1 and H9 of the Local Plan and Policies SP1 and SP4 of the eCDLP.

### *Mitigation*

12. The appeal site is located in close proximity to the Thanet Coast and Sandwich Bay SPA, a European site of nature conservation importance. The appellant

provided a draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. This would secure the delivery of the necessary measures to mitigate the impact of the proposed development on the SPA through a financial contribution directed towards Strategic Access Management and Monitoring Plans.

13. The contribution is necessary in order to ensure that the proposal would comply with the requirements of Policy NE1 of the Local Plan requiring mitigation measures to provide an appropriate response to the habitat interest of the site and Policy BE1 which states that the Council will have regard to the conservation of natural features to strengthen biodiversity. It would also be necessary to comply with Policies SP1, SP6, LB5 and LB9 of the eCDLP which together, among other things seek to prevent an adverse effect upon the integrity of a SPA, provide the highest levels of protection and avoid a net loss of biodiversity / nature conservation value.
14. The contribution is also required to address paragraph 17 and section 11 of the Framework which seek to conserve and enhance the natural environment, to maintain the character of the undeveloped coast and to conserve and enhance biodiversity. It would also be in line with the provisions of the Habitats Regulations and Directive to prevent development affecting the integrity of a European site. I have not been provided with a completed Unilateral Undertaking but as I am dismissing the appeal for other reasons I have not pursued this matter with the appellant.

#### *The Effect on Protected Species / Biodiversity*

15. Representations submitted by Kent County Council indicate that the appeal site has potential for various species including great crested newts, bats, reptiles, breeding birds and badgers to be impacted by the proposed development. Policy NE1 of the Local Plan requires that where a site is known or likely to have protected habitats or species, or species identified in national or Kent Biodiversity Action Plans, developers will be expected to carry out a survey and present proposals for mitigation. Policy LB9 of the eCDLP states that all development should avoid a net loss of biodiversity / nature conservation value.
16. The appellant indicated that various sources of information identified by Natural England and DEFRA were interrogated which indicated that the site had no known or was not likely to have protected habitats or species. However, whilst noting the appellant's comment that no request for surveys to be carried out was received from the City Council, in the light of the comments from Kent County Council I find that it has not been adequately demonstrated that the proposed development would not adversely affect protected species / biodiversity. Whilst the appellant indicated a willingness to comply with a condition to carry out a survey this would not be appropriate as the presence or otherwise of protected species / biodiversity is fundamental to the decision whether or not to grant planning permission.
17. In the absence of appropriate information having been submitted the risk to protected species / biodiversity is unknown and it has not been demonstrated that protected species will not be harmed. Consequently the proposal is contrary to Policies NE1 of the Local Plan and LB9 of the eCDLP.

*Other Matters*

18. Neighbouring residents raised concerns about the impact of the proposed development on nearby heritage assets including the grade II listed Bredlands Farmhouse. In addition, concerns were raised about the effect of the proposal on drainage and water supply. I have taken account of these matters but they have not been decisive in my decision.

**Conclusion**

19. For the reasons set out above, the appeal is dismissed.

*Kevin Gleeson*

INSPECTOR