
Appeal Decision

Site visit made on 8 May 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 8 June 2017

Appeal Ref: APP/U2235/W/17/3167819

Willow Farm, Tyland Lane, Sandling, Maidstone, Kent ME14 3BL

- 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 Messrs MJ and MG Nuttall against the decision of Maidstone Borough Council.
 - The application Ref 16/507776/OUT, dated 30 October 2016, was refused by notice dated 23 December 2016.
 - The development proposed is the demolition of existing commercial structures and the erection of two number three bedroom bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for future consideration. Whilst the application description refers to bungalows, the submitted plans are for illustrative purposes only, and therefore represent only one way in which the site might be developed. I have dealt with the appeal on that basis.
3. The Council cited policies from the Submission Version Maidstone Borough Local Plan in the Decision Notice. As public consultation on main modifications to this document has taken place I give these policies substantial weight, with due regard to paragraph 216 of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues in the appeal are:
 - the effect of the development on the character and appearance of the surrounding area, having regard to its location within a strategic gap;
 - whether future occupiers would have satisfactory access to local services;
 - The effect of the proposal on protected species.
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Reasons

Background

5. At the time that the application was determined, the Council considered it could demonstrate a 5.12 year supply of deliverable housing sites (HLS), based on its April 2016 Annual Monitoring Report, and 5.71 years based on a desktop update in September 2016. The appellants contend that the Council does not have a five year HLS, based on three appeal decisions¹ issued between June and December 2016. However, these decisions all pre-date the Inspector's Interim Findings from the examination on the Maidstone Borough Local Plan, published on 22 December 2016.
6. Whilst the final report is not yet available, in the absence of any compelling evidence to the contrary I attach substantial weight to the Inspector's interim conclusions that a smoothing of the housing trajectory by addressing the backlog of housing delivery over 10 years from 2016 to 2026, and the identification of additional site allocations in the latter part of the plan period through an early review, should strengthen the Council's five year housing land supply position as at 1 April 2016. He also noted that additional planning permissions granted since that date would further strengthen the position.
7. Having regard to the above, I consider on the balance of available evidence that the Council is able to demonstrate a five year supply of deliverable housing sites and thus paragraph 49 of the Framework is not engaged.

Character and appearance

8. The appeal site is located outside any designated settlement boundary in the Maidstone Borough-Wide Local Plan (LP) (2000). LP Policy ENV28 seeks to prevent development in the open countryside that would harm the character and appearance of the area, and the proposal falls outside any of the exceptions listed in the policy. This policy is consistent with the Framework insofar as it recognises the intrinsic character and beauty of the countryside as one of its core principles.
9. The appeal site lies to the rear of properties fronting Tyland Lane, and is accessed by a private drive between Eynsford and Northside, two detached dwellings. It contains a number of buildings, mostly clustered along the western and northern boundaries of the site. In the south and south-east corner of the site there are grassed areas with the remainder laid to hardstanding. A separate access to the west serves adjacent properties to the rear of houses on Tyland Lane, including Willow Farm House and commercial properties. To the south and east of the site are open fields sloping down towards woodland.
10. The existing structures on the site are varied in size and design, from small timber sheds to a double height barn. The scattered, informal layout and equestrian use of the site is sympathetic to the rural character of the area and provides an effective transition from the residential built up area north of the site to the open fields to the south. In contrast the two dwellings would introduce a domestic character that would extend the established residential development fronting Tyland Lane into the open countryside.

¹ APP/U2235/W/15/3131945; APP/U2235/W/16/3149542; and APP/U2235/W/16/3153903

11. I acknowledge that the development would result in a reduction in the overall built footprint on the appeal site, and the extent of hardstanding across the site, but the two proposed dwellings, notwithstanding the illustrative nature of the elevations submitted, would inevitably be larger than any of the individual buildings and greater in height than most of them. As such they would have a more significant visual impact that would alter the rural character of the site. Landscaping around the boundaries of the site would not ameliorate the harmful effect of the development.
12. The appellants have referred to a recent residential development at Tylands Corner, also outwith the settlement boundary, but the Council has confirmed that this proposal involved removal of unsightly industrial units in a prominent location that were not in keeping with the character of a rural area. Accordingly that scheme is materially different to the one before me.
13. Turning to the impact on the strategic gap, LP Policy ENV31 states that development which significantly extends the defined urban areas of the built up extent of any settlement within the strategic gap will not be permitted. Given the relatively modest size of the site in relation to the strategic gap as a whole, and the limited long range public views of the site the proposal would not prejudice the function of the strategic gap in maintaining separation between settlements, and thus would not be contrary to LP Policy ENV31.
14. Nonetheless, for the reasons set out above I conclude that the proposal would harm the character and appearance of the surrounding area, and would conflict with LP Policy ENV28, and policies SP17 and DM34 of the Submission Version Maidstone Borough Local Plan.

Access to services

15. The site is located approximately 2 miles from the northern edge of Maidstone. It would be possible to cycle to Maidstone within about 20-30 minutes along a relatively quiet route and some bus services are available from Old Chatham Road, about 500 metres from the appeal site. However, there are no local shops or services within a reasonable walking distance. Accordingly, whilst there would be some alternative travel options most residents would be reliant on the private car over more sustainable modes for most journeys.
16. I therefore conclude that the proposal would not provide satisfactory access to local services, contrary to the expectations of the Framework, which seeks to locate new developments to give priority to pedestrian and cycle movements and to give access to high quality public transport facilities.

Effect on protected species

17. No ecological survey has been undertaken in relation to the appeal proposal, and the appellants consider the site to be sterile with no facilities for roosting or nesting. The Council has advised that a previous application was refused in part due to a lack of information on the ecological interest of the site and that the appellants were advised at the application stage that such information would be required.
18. The Planning Practice Guidance states that an ecological survey will be necessary in advance of a planning application if the type and location of development is such that the impact on biodiversity may be significant and existing information is lacking or inadequate. In this instance the presence of

existing buildings within the site, the rural nature of the area and close proximity to open fields and woodland suggests that the site could have potential for birds or bats and to contribute to ecological networks.

19. Taking a precautionary approach, without a phase 1 survey for assessment it cannot be reasonably concluded that no protected species or habitats will be affected by the appeal proposal. I therefore conclude that the proposal would be contrary to paragraphs 117 and 118 of the Framework, which require local authorities to promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species.

Conclusion

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

Claire Victory

INSPECTOR