

Appeal Decision

Site visit made on 25 October 2017

by David Smith BA(Hons) DMS MRTPI

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

Decision date: 3rd November 2017

Appeal Ref: APP/A2280/W/17/3181037

Ratcliffe House, Ratcliffe Highway, St Mary Hoo, Kent, ME3 8RJ

- 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 Roger Ellis against the decision of Medway Council.
 - The application Ref MC/17/0249, dated 20 January 2017, was refused by notice dated 28 March 2017.
 - The development proposed is construction of new detached house (demolition of detached garage) and construction of new detached garage for existing house.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are whether the proposed dwelling would be in a suitable location having regard to local policies concerned with housing in rural areas and the effect on the North Kent Marshes Special Protection Area (SPA).

Reasons

Suitable location?

3. The proposal is to sub-divide the existing residential curtilage to create an additional plot for a new dwelling. The appeal site is within a small nucleus of development outside of any settlement and there are other scattered properties nearby. The wider surrounding area is unmistakably rural with an open landscape which is lightly settled and mainly agricultural in nature.
4. As it would be situated between existing dwellings the new house would not encroach into the countryside. However, Policy H11 of the Medway Local Plan provides that housing development in the rural area will generally be restricted to minor development within the confines of certain listed settlements. The proposal would not accord with these provisions which are intended to prevent sporadic development.
5. Furthermore, Policy BNE25 of the Local Plan indicates that development in the countryside will only be permitted in certain circumstances. None of the types of development specified at criteria (ii) to (vii) apply in this case. There is a bus stop a short way to the north at Barn Street Cottages. Three of the 4 services using it are irregular. The fourth provides a link to the Medway towns on, at best, an hourly basis. Whilst offering future occupiers some choice of means of travel, the bus service and the scope for coach travel to London are not so convenient that the site can be described as well-connected.

6. The lack of footpaths and the distance to the closest convenience store as well as the limited availability of public transport mean that there would be likely to be a daily reliance on the use of private vehicles. As the development does not offer a realistic chance of access by a range of transport modes it would conflict with criterion (i) of Policy BNE25. This aims to focus new development in or near to local service centres and identifies Hoo St Werburgh as the preferred location for a significant increase in rural housing.
7. The Local Plan dates from 2003 but the weight to be given to it does not hinge on its age. Rather paragraph 215 of the Framework makes it clear that weight should be given to existing policies according to their degree of consistency with the Framework. In this regard the countryside is not protected for its own sake but its intrinsic character and beauty is recognised by the Framework and new isolated homes in the countryside should be avoided. The Framework also seeks to make the fullest possible use of public transport, walking and cycling. Even taking account of the objective of boosting significantly the supply of housing and the position in Medway, the conflict between the proposal and Policies H11 and BNE25 should be given significant weight in this appeal.
8. Therefore, when judged against local policies, the proposal would not be in a suitable location. Permitting it would be harmful in that the strategy for the distribution of housing would be undermined and as car borne travel would be encouraged.

North Kent Marshes SPA

9. The appeal site is within 6km of the North Kent Marshes SPA and because of the potential for recreational disturbance on the over-wintering bird interest the proposed development is likely to have a significant effect on a European site. In order to mitigate the impacts it is expected that a financial contribution for each new dwelling be made on the basis of the interim tariff. This payment is expected to go towards measures identified in an access management and monitoring strategy. At application stage it was understood that a unilateral undertaking would be submitted but this has not been forthcoming.
10. Consequently without any mechanism in place to provide the necessary mitigation the proposal would be likely to adversely affect the integrity of the SPA contrary to Policy BNE35 of the Local Plan.

Other considerations

11. The Council cannot demonstrate a five year supply of deliverable housing sites and the shortfall is described as "substantial". In these circumstances paragraph 49 of the National Planning Policy Framework establishes that relevant policies for the supply of housing should not be considered up-to-date. However, paragraph 119 and footnote 9 indicate that sites protected under the Birds and Habitats Directives are those where development should be restricted. Therefore, the provision in paragraph 14 of the Framework that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, does not apply.
12. Regulation 61(5) of the Conservation of Habitats and Species Regulations of 2010 (as amended) stipulates that plans or projects may only proceed if it has been ascertained that they would not adversely affect the integrity of a

European site. That is not the case here. In any event, there would be limited social and economic benefits associated with the proposal. One additional unit would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be insignificant. Therefore these other considerations are not of great weight.

13. A proposal for a chalet bungalow at The Birches was dismissed at appeal in 2016 (APP/A2280/W/16/3143613). Given the proximity to Ratcliffe House there are a number of similarities between that case and this one. I have nevertheless considered this appeal on an individual basis.

Conclusion

14. The proposal would undermine the housing strategy, increase travel by car and have an adverse impact on the SPA. It would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR