

Appeal Decision

Site visit made on 15 July 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2019

Appeal Ref: APP/X2220/W/19/3227116

The Old Pump House, Beacon Lane, Woodnesborough CT13 0PD

- 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 Mr Peter Gillin against the decision of Dover District Council.
 - The application, Ref. DOV/18/00977, dated 10 September 2019, was refused by notice dated 6 November 2018.
 - The development proposed is decommissioning of wells and adit, back filling with clean shingle and an outline application for two dwellings (appearance, landscaping, layout and scale to be reserved).
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Decision

1. The appeal is allowed and outline planning permission is granted for decommissioning of wells and adit, back filling with clean shingle and the erection of two dwellings (appearance, landscaping, layout and scale to be reserved) at The Old Pump House, Beacon Lane, Woodnesborough in accordance with the terms of the application, Ref. DOV/18/00977, dated 10 September 2019, subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the principle of the proposed dwellings in this rural location, including their effect on the character and appearance of the area.

Preliminary Matters

3. As indicated in the header and paragraph 1 above, the application is for outline planning permission with appearance, landscaping, layout and scale reserved. I have therefore considered the details on the submitted plans as being only indicative of a scheme for the development of two detached dwellings.

Reasons

4. Assessment of the acceptability or otherwise of the principle of two additional dwellings in the countryside and outside of any defined urban or village confines, requires assessment of national and local planning policy insofar as it is relevant to the application site, together with any other relevant material considerations. The development plan is the Dover District Core Strategy 2010 and in its Notice of Refusal the Council has cited Policies CP1, DM1, DM11 & DM15 as being the key policies with which the proposal is in conflict. The National Planning Policy Framework 2019 ('the Framework') is a significant
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material consideration and the Council refers in particular to paragraphs 110, 127, 130 & 170 in support of its decision.

5. I saw on my visit that the site, formerly part of a drinking water pumping station previously owned by Southern Water Services Ltd and with a slightly larger plot adjoining the south west boundary still operational, lies within a ribbon of residential development on the north west side of Beacon Lane. Although there are fields behind a hedge on the opposite side of the road, the officers' report describes the development on the appeal site side as *'typically residential, with a prevalence of two storey detached dwellings'*.
6. I agree with this description noting that the appellant points out that there is uninterrupted development adjoining both sides of the appeal site. To the south this extends for a distance of 360 metres and to the north 117.5 metres. Whilst the development is essentially linear in form with frontages to Beacon Lane, there are additionally dwellings positioned towards the rear of the plots, notably on the land immediately to the north east. And this, together with the size and design of many of the dwellings, in my view results in a partially suburban rather than wholly rural character for this substantial enclave of development some 600 metres south west of the nearest boundary of Woodnesborough.
7. Furthermore, the appeal site itself, with its proximity to and visual relationship with the pumping station and associated plant and structures; a maintained grassed area, and the planted line of trees in the adjoining meadow does not read as open and undeveloped countryside. It does afford a pleasing visual break in the line of residential development, but in my view does not in itself represent a significant departure from the overall character of what is a varied street scene including both rural and more urban characteristics.
8. In the light of the above assessment, I am unable to support the Council's view that, as stated in the Notice of Refusal, the proposal would result in an *'overtly domestic form of development within a rural location which would appear as an incongruous and intrusive feature, detrimental to the rural character and appearance of the area'*. The assertion of incongruity is particularly inappropriate given that the Council has accepted that the context is *'typically residential'* in the form of two storey detached dwellings. Furthermore, the development would be positioned to the rear of the existing meadow with its frontage to Beacon Lane and I consider this would retain a rural character in views of the proposed dwellings from the public domain.
9. Having regard to this conclusion I do not agree that there would be a conflict with Policy DM15, as there would be no harmful loss of countryside or adverse effect on its character or appearance. As regards the paragraphs of the Framework referred to in the second refusal reason, these include paragraph 170 with the reference in b) to decisions on development needing to recognise the intrinsic character and beauty of the countryside. However, I have already explained why I do not consider this applies to the appeal site. Nor do I see any reason why a reserved matters application would be contrary to the design criteria of paragraph 127. Similarly as regards paragraph 130, there will be the opportunity to achieve a development of a high design standard and of a good build quality. The indicative plans do not suggest otherwise.

10. Turning to the broader issue of whether the appeal scheme would be precluded by the 'normal restraint policies' and whether the development would be unsustainable, the Council refers to the policies listed in paragraph 4) above together with four paragraphs in the Framework considered to be supportive of its decision to refuse outline permission.
11. As regards Policies CP1 and DM1, the Council's view is that because the appeal site is outside the confines of the village of Woodnesborough and there is no functional requirement for a rural location, the appeal scheme would be precluded. Nor is the development of two dwellings on the site regarded as being consistent with the objectives of Policy DM11 which prioritises locations that can support the more sustainable modes of travel. In respect of the Framework, requirement a) of paragraph 110 appears to be the most relevant of its provisions and is similar in its purpose to Policy DM11.
12. I acknowledge that these elements of local and national policy can reasonably be argued in support the Council's case. However, I have already concluded that the appeal proposal does not contravene paragraph 127 & criterion b) of paragraph 170 and I take the same view in respect of the latter's remaining criteria. In fact the thrust of requirement f) for development to remediate and mitigate land that is contaminated or in other ways already harmed supports the decommissioning and redevelopment of the site, provided it is carried out in accordance with appropriate conditions.
13. Of greater significance are other paragraphs of the Framework referred to in the appellant's appeal statement. Whilst I consider that accompanying caveats limit the direct relevance of some the Framework's policies quoted in the appeal statement, Paragraph 11 establishes the presumption in favour of sustainable development, including when relevant policies are out of date. In addition, paragraph 117 encourages planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses and makes it clear that as much use as possible is made of previously developed or 'brownfield' land.
14. The overall thrust of these and paragraphs 77-79, 103 and 118 of the Framework is one of a flexible and positive approach towards development, including, where appropriate, in rural areas. In this case the Council accepts that its evidence base and Core Strategy Policies CP2 & CP3 are out of date and is therefore proceeding towards the preparation of a single new Local Plan. In this broad context the Council's position as regards housing land availability in the Planning Officer's report has since been modified by the publication in March 2019 of its Five Year Housing Land Supply 'Dover District Authority Monitoring Report 2017-2018'.
15. This report shows a change in that a 5-year supply can now be demonstrated, but whilst I give this some weight the summary extract provided still has 'Draft' printed on it which implies that some further confirmation of its accuracy and status may still be required. And even if this is discounted, the report still has to be fed into the holistic exercise of the new single Local Plan with up to date evidence and the revision of its out of date policies. On balance on this point, I conclude that the addition of two dwellings can reasonably be regarded as beneficial and is not a scale of development that would materially affect the

Council's strategies for the development as regards its settlement policy or the protection of the countryside.

16. A further argument raised by the Council is that the location of the appeal site would generate an unacceptable increase in the need to travel by car. I accept that occupiers of the proposed dwellings would be essentially car reliant for most of their day their day travel requirements. However, to a greater or lesser extent this is also the case for most residents of the countryside, including residents of Woodnesborough which unlike this part of Beacon Lane has the status of a 'village' in the Core Strategy's settlement hierarchy.
17. Moreover, I share the appellant's assessment that transport connectivity, access to local amenities and the potential for small infill housing to support and sustain a range of nearby public facilities are all positive rather than negative factors in this appeal. Indeed, the situation is commensurate with the constraints inherent in rural areas referred to in Framework paragraph 103 and also, despite the site not being within the confines of 'a village', the objective of paragraph 78 for housing to be located where it will facilitate the vitality of rural communities. This finding is consistent with the Court's judgement in *Braintree DV v SSLG [2018]* as cited for the appellant.
18. Overall on the main issue, I conclude on balance that the principle of the proposed dwellings in this rural location is acceptable. I additionally conclude that subject to details in the reserved matters being of a good quality, there would be no harm caused to the character and appearance of the area. Accordingly, there would be no harmful conflict with Policies CP1, DM1, DM11 & DM 15 of the Dover District Core Strategy. There would similarly be no conflict with the policies and objectives of the Framework and when assessed against the latter as a whole the appeal scheme would be 'sustainable development'.

Other Matters

19. Access to the site is not reserved but I do not consider that Drawing No. 4098 submitted with the application shows sufficient detail. Whilst I have noted concerns as to safety have been raised by objectors to the proposal, the access to Beacon Road will not be significantly different to some of the other existing accesses along the road. I have also noted the results of the appellant's survey indicating speeds averaging not significantly over 30mph. And subject to the imposition of a condition requiring the submission and approval of a drawing with more details, I consider that the access to the site would not be a reason to withhold permission.
20. Objections to the appeal proposal have been submitted by the parish council and some local residents. These in part reflect the Council's objections but also refer to other matters including the aforementioned access and matters of highway safety and environmental impact. However, whilst I have taken these points into account, to the extent that they have not already been addressed in this Decision I consider that they are of insufficient weight to alter my conclusions on the main issue.
21. The Council has drawn my attention to the Former Kumor Nursery appeal decision. However, the differences of development scale and countryside setting of that case compared with the current appeal are such that I am unable to draw any meaningful comparisons and conclusions.

22. As regards the Thanet Coast and Sandwich Bay SPA and Ramsar sites, I have noted the reference in the Council's appeal statement to the EU Court of Justice judgement in April 2018. However, whilst I conclude under the Habitat Regulations that in combination with other proposals for housing development in the Dover District the development of two dwellings would have an adverse effect on the integrity of these designated sites, the Council's stated position also materially informs my decision on this matter.
23. This is that the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy, agreed with Natural England in 2012, is still considered to be effective in preventing or reducing the harmful effects of housing development on the designated sites. And because of the small scale of the appeal scheme, a financial contribution towards the Mitigation Strategy will not be required. Accordingly, there is no reason for permission to be withheld in this case in terms of the statutory requirement to safeguard the protected species within the SPA and Ramsar sites.

Conclusion and Conditions

24. For the reasons explained above and having taken account of all other matters raised, the appeal is allowed and permission granted subject to conditions. The Council has suggested a list of conditions, albeit in so doing overlooking the fact that the application is in outline form. Other than additions and deletions necessary for this reason, I endorse the suggestions made, whilst I have added an access and construction vehicle parking condition in the interests of highway safety.
25. A suite of conditions is required to satisfactorily reclaim the site from its former use as part of a pumping station and avoid the immediate and longer term risk of land contamination. In a similar vein, conditions for the disposal of foul sewage and sustainable drainage will prevent the new dwellings causing harm to their surroundings and safeguard environmental quality. Parking and cycle storage conditions will maintain highway safety and encourage cycling as a sustainable transport mode respectively.

Martin Andrews

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout and scale of the development (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved;
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this Decision;
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved;
- 4) No development shall take place until plans and details of the junction of the access drive with Beacon Lane and temporary arrangements for the parking of vehicles associated with construction work have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place above ground level until a plan and details indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed before the occupation of the development to which those details relate.
- 6) No development shall take place until a detailed scheme for the disposal of foul sewage, which shall include details of works on site and, if necessary, works off site, together with a programme for implementation and long term maintenance, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented and operational before any of the dwellings hereby permitted are first occupied and shall be maintained in accordance with the approved scheme thereafter.
- 7) No development shall take place until plans and particulars of a sustainable drainage system scheme for the disposal of the site's surface water, which shall include a programme and timetable for the provision of those works and details of provision for future maintenance of the sustainable drainage scheme, in perpetuity, including frequency and responsibility, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented, operational and managed in accordance with the approved programme and timetable hereby permitted and shall thereafter be maintained in accordance with the approved scheme.
- 8) The details submitted as part of the reserved matters shall show the provision of vehicle parking space and turning space for both dwellings. These areas shall be drained and surfaced before the occupation of the dwelling to which they relate and shall be retained for that use thereafter.
- 9) No development above ground shall take place until details of refuse/recycling storage have been submitted to and approved in writing by the local planning authority. The approved works shall be provided before

the dwellings to which the details relate are first occupied and shall thereafter be kept available for their approved purpose at all times.

10) No development shall take place above ground until details of bicycle storage facilities have been submitted to an approved in writing by the local planning authority. The approved bicycle storage shall be completed prior to the first occupation of the development and shall thereafter be retained solely for that purpose.

11) No development shall take place until a scheme to deal with contamination of land and/or groundwater has been submitted and approved in writing by the local planning authority and until the measures approved in that scheme have been implemented. An investigation report shall be conducted and presented in accordance with the guidance in CLR11 "Model Procedures for the Management of contaminated land" published by the Environment Agency. The scheme shall include all of the following measures unless the local planning authority dispenses with any such requirement specifically and in writing:

(i) A desk-top study shall be carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site.

(ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until a desk-top study has been completed satisfying the requirements of paragraph (i) above and the requirements of the local planning authority for site investigations have been fully established, and the extent and methodology have been agreed in writing by the local planning authority.

(iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site, including a timetable, shall be approved in writing by the local planning authority prior to commencement of such works. No deviation shall be made from this scheme without the express written agreement of the local planning authority.

(iv) A Certificate shall be provided to the local planning authority by a suitably qualified or otherwise competent person stating that remediation has been completed as approved and the site is suitable for housing development.

12) If investigation and risk assessment shows that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation scheme shall be carried out in accordance with the approved terms including the timetable,

unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given not less than two weeks written notification of commencement of the remediation scheme works.

13) Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

14) In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.