
Appeal Decision

Site visit made on 20 January 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/L2250/W/19/3237421

The Cottage, Fishers Lane, Stelling Minnis CT4 6BJ

- 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 & Mrs Dowle against the decision of Folkestone and Hythe District Council.
 - The application Ref Y19/0669/FH, dated 6 June 2019, was refused by notice dated 4 September 2019.
 - The development proposed is change of use of The Cottage from ancillary residential to Abbotswood to a separate residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the names of the appellants, the site address and the description of proposed development from the planning application form, although I note these are expressed differently on other documents.

Main Issue

3. The main issue in this case is whether the countryside location is an appropriate location for a new independent residential development having regard to the spatial strategy of the development plan.

Reasons

4. The Cottage is an ancillary 'granny annexe' building associated with the existing dwelling of Abbotswood. The proposal seeks to subdivide the existing residential curtilage of Abbotswood to create a dwelling within its own grounds having its own access independent from Abbotswood. Abbotswood, and its associated outbuildings, is situated in a rural location and is surrounded by open countryside. The site, being located outside of any established settlement boundary, is within the countryside for the purposes of planning policy.
5. Shepway District Local Plan (the Local Plan) Policy HO1 directs new residential development to sites that form part of the land supply or allocated new sites whilst Policy CO1 seeks to protect the countryside. Core Strategy Policy DSD of the Shepway Core Strategy Local Plan (the Core Strategy) seeks to deliver sustainable development. Core Strategy Policy SS1 sets out the District's spatial strategy and indicates that development should be focused on the most

sustainable towns and villages and that development in the open countryside will only be allowed exceptionally where a rural location is essential. Core Strategy Policy SS3 essentially combines the above aims indicating that development within Shepway is directed towards existing sustainable settlements to protect the open countryside. Local Plan Policy SD1 also reflects these aims and, in addition, seeks to shape new development patterns in a way which reduces the need to travel, especially by car. Core Strategy Policy CSD3 indicates that new development in locations outside the settlement hierarchy may only be allowed if a rural location is essential. The proposal has not been supported by any particular residential need that would require a rural location.

6. Abbotswood with its associated outbuildings stands alone away from other dwellings. The occupation of The Cottage would create a new home and would be an isolated home in the countryside. There are no services or facilities close by or that could be reached within a reasonable walking distance. The roads in the area are single track and have all the attributes of country lanes. I have not been directed to any public transport that might provide access to settlements. I consider the occupiers are extremely likely to be heavily reliant on private vehicle to access services and facilities at settlements to meet their day to day needs and this would only be possible via rural country lanes.
7. Paragraph 79 of the National Planning Policy Framework (the Framework) makes it clear that isolated homes in the countryside should be avoided unless one or more of the criteria associated with paragraph 79 would apply. It is contended that the proposal would comply with Part (d) of paragraph 79 as the proposal would relate to the subdivision of an existing residential dwelling as the annexe would form part and parcel of one single dwellinghouse. To substantiate this opinion, the appellant has referred me to the Government's definition of a dwelling that includes reference to ancillary dwellings (granny annexes) that are self-contained. However, it should be noted that the definition provided by the appellant excludes self-contained ancillary dwellings where there is a conditional restriction on occupancy in place, as is the case here.
8. The annexe is located some distance from the main dwelling, Abbotswood and is distinctly separate from it. Due to the circumstances of the site, the annexe does not represent a normal domestic adjunct to the dwelling. Whilst the occupation of the annexe may be incidental to the residential use of the wider site, as a matter of fact and degree I find that the annexe is not part of the dwelling. Furthermore, the proposal relates to the subdivision of the curtilage of the existing dwelling to form a new residential planning unit with its own grounds. In planning terms, I consider this would involve a material change in use that goes beyond the subdivision of an existing residential dwelling. I am of the view that paragraph 79 Part (d) of the Framework does not apply in this case.
9. The appellant contends that it would be unreasonable to restrict the annexe as an ancillary use, particularly as it has been 40 years since the original permission was granted and the property has since changed hands. It is advised that there is no longer a need for a granny annexe at the site as the appellant has no suitable family members that might occupy the unit. Whilst this may be so, this does not justify a development that would conflict with the District's spatial strategy and those provisions that restrict homes in the countryside where access to day to day facilities is not readily available.

10. It has also been suggested that the restricted occupancy condition would not be enforceable as it would be difficult to differentiate between the occupation by a family member as opposed to that of a non-related third party. I see no substantive reason why this distinction would not be able to be reached if enforcement investigations required this to be established. As I see it, if The Cottage were to be occupied by an individual/individuals not connected with the occupiers of Abbotswood, this would be in breach of the planning condition to which the Council could instigate appropriate enforcement action.
11. I have been directed to what is said to be a similar proposal at The Dairy, Lenham, but I have not been provided with the full details of that case to determine what similarity, if any, that proposal would have to that of the proposal before me. Nonetheless, that proposal related to a different site within a different determining authority where development plan policies are likely also to differ. I, therefore, consider the proposal before me can and should be considered on its own merit.
12. For these reasons, I conclude that the countryside location would not be an appropriate location for a new independent residential development having regard to the spatial strategy of the development plan. The proposal would conflict with Policies SD1, CO1 and HO1 of the Local Plan, Policies DSD, SS1, SS3 and CSD3 of the Core Strategy and the provisions of the Framework that seek, amongst other matters, to resist isolated homes in the countryside and that direct new residential development to existing settlements. The Council has advised that it can meet its housing land supply requirements, therefore, the proposal can be determined in accordance with the development plan.

Conclusion

13. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR