



Appeal Decision

Site visit made on 26 September 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/M2270/W/19/3231768

Ferrers, Sand Lane, Frittenden, Cranbrook TN17 2BA

- 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 O'Donnell against the decision of Tunbridge Wells Borough Council.
 - The application Ref: 18/03479/FULL, dated 5 November 2018, was refused by notice dated 3 January 2019.
 - The development proposed is described as 'the development of one detached and two semi-detached, three bedroomed houses with attached single garages on land adjacent to 'Ferrers', Sand Lane, Frittenden'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council are in the process of preparing an emerging Local Plan, however, as it is at an early stage, I therefore attach only very limited weight to it.

Main Issues

3. The main issues are:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy and the accessibility of services and facilities; and
 - ii) the effect of the proposal on the character and appearance of the surrounding area and countryside; and
 - iii) highway safety.

Reasons

Settlement strategy and the accessibility of services and facilities

4. The appeal site consists of a large rectangular plot of land to the side of Ferrers, a substantial detached dwelling. To its other side are a pair of semi-detached dwellings, also set in reasonably large and spacious plots. The appeal site is enclosed by hedgerow to its front boundary to the roadside and a mix of hedgerow and fencing along the other boundaries. The site lies outside of the Limits to Built Development (LBD) for Frittenden and for planning purposes is within the countryside.

5. Policy LBD1 of the Tunbridge Wells Borough Local Plan (2006)(LP) strictly controls development outside of settlement boundaries to uses appropriate within the countryside. In the absence of anything to suggest that the dwellings proposed would be consistent with countryside policies, the development would clearly conflict with LP Policy LBD1.
6. The National Planning Policy Framework (Framework) sets out that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 states that isolated homes in the countryside should be avoided unless there are special circumstances. This fits into the general planning principle of supporting thriving rural communities.
7. Given the proximity of other dwellings I do not consider that the appeal site would be 'isolated' for the purposes of the Framework, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
8. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services. In this case, Core Policy 5 of the of the Tunbridge Wells Borough Core Strategy Development Plan Document (2010)(CS) requires new development to manage and seek to reduce air pollution levels. The Framework states that the planning system should actively manage patterns of growth but recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
9. Frittenden appears to be a small village with a limited range of facilities including a shop with post office, primary school, public house and a village hall. It would be possible to walk from the appeal site into the village, however, there is no immediate footway from the appeal site. Albeit a footway exists for part of the journey, pedestrians would need to walk in the carriageway for an appreciable length of the route. Even though there are verges that could provide refuge to pedestrians, in places they are narrow and uneven. Given an absence of street lighting and the nature of the route, it is such that it would be highly unlikely that anyone with a young child, pushchair or wheelchair would attempt to walk these routes, particularly during inclement weather or at night, as the verges described above would not provide refuge for them. In my view the route would not be an attractive option for future residents, who to my mind would be likely to use a private motor vehicle to access services and facilities to meet their day to day needs.
10. I accept the Rural Service Centres of Staplehurst and Headcorn, which are approximately 4kms away, could be reached easily by car. I have not been provided with detailed evidence about Staplehurst and Headcorn, although I am advised that they offer a wider range of services and facilities including shops, health centres, public houses and public transport including a railway station with onward connection to Ashford, Tunbridge Wells and Charing Cross.
11. It is the appellant's case that due to the shortness of driving distance to access Staplehurst, Headcorn and Frittenden, this would result in a limited impact. The appellant relies on the appeal decision at The Oaks¹ in support of its case. I have had regard to the Inspector's findings in that case, however, in my view the two sites are significantly different. Among other things, the Inspector

¹ APP/U2235/A/14/2228989 The Oaks, Maidstone Road, Sutton Valence, Maidstone

concluded that the future occupants of The Oaks scheme would not be dependent upon use of a private vehicle.

12. In addition, it would appear that the convenience of using a private motor vehicle to reach Frittenden, the nearby villages, nearest towns and destinations further afield, would make it unlikely for future occupants to rely on local facilities. Moreover, even if they were to use these on a regular basis, I do not find that this would make any significant contribution to enhancing or maintaining the vitality of Frittenden. The appeal site is simply too far away to provide a strong functional connection and the scale of the development too small. I am mindful that the Framework seeks to locate new development in sustainable locations through limiting the need to travel and offering a genuine choice of transport modes. In the absence of sustainable modes of transport, I find that the proposal fails to satisfy the environmental objective of the Framework.
13. Overall, I conclude that future occupiers would be highly dependent on travel by private motor vehicle to access services and facilities and thus the location of the proposal, beyond the LBD and in the countryside, would not be an appropriate location for residential development. The proposal would fail to accord with LP Policy LBD1 and CS Policies 1, 6 and 14 insofar as these policies seek to focus new development within settlement boundaries and restrict development within the countryside in order to promote a sustainable pattern of development within the borough. In addition, the proposal would conflict with CS Core Policy 5, the requirements of which are set out above.

Character and appearance

14. Sand Lane is characterised by random and sporadic forms of development of varying age and architectural style that is built along both sides of the lane. Albeit a cluster of closely positioned dwellings exists towards the junction with Biddenden Road, built development becomes more intermittent beyond Woodside, as the road approaches the appeal site. Given the general absence of buildings to the rear and front of the appeal site, views can be glimpsed through the existing vegetation towards agricultural land and countryside that lie beyond.
15. The Tunbridge Wells Landscape Character Assessment (LCA)(2017) identifies Frittenden as a loose-knit village with attractive buildings dispersed throughout a flat to gentle undulating lowland clay vale landscape of pasture, with some larger arable fields set within a framework of mature remnant hedgerow trees and derelict hedgerows.
16. Given the appeal site's prominent position at the point where Sand Lane enters and exits the more densely built form of Frittenden, I consider the appeal site is visually very important in relation to its valuable contribution to the overall rural character of Frittenden. The proposal would introduce built form where there is presently none and dilute the green corridor leading out of the village, to the detriment of the character and appearance of the area.
17. The proposal could be considered to be infill development between two existing dwellings. Given that the proposal would make use of garden land outside of the LBD, the site could be considered as previously developed land (PDL). The Framework does not preclude the development of PDL however the determining factor is whether or not this can be achieved without conflict to

other policies within the Framework, in this instance whether there would or would not be harm to the local environment.

18. I have taken account of the proposed retention of existing boundaries and the provision of additional landscaping. However, despite the appeal site being large enough to accommodate three dwellings, these would occupy almost the entire width of the plot, significantly reducing the gap between buildings and result in a significant urbanising effect along this part of Sand Lane. The proposal would include a shared access onto the highway which would ensure that the majority of the existing front boundary would be retained. Whilst there is some dispute between the parties concerning the ridge heights of the proposed dwellings, even if I were to accept that the ridge line would match those of neighbouring dwellings, given their scale, mass and design, the visual impact of the dwellings would be substantial in views through and over vegetation, views from neighbouring dwellings or through the suggested driveway opening. These views would increase at times when vegetation is less dense, for instance, during winter months.
19. I have had regard to the images of Frittenden provided by the appellant. Despite the proposal making use of traditional architecture style and materials and appearing as a continuation of the form of linear development along Sand Lane, given my findings above, the proposal would not appear as part of the tighter knit character of the village. To my mind, the proposal would harmfully erode and begin to urbanise the open character of the area contrary to the findings of the LCA.
20. Accordingly, I conclude that the proposed development would be materially harmful to the character and appearance of the surrounding area and countryside. It would therefore be contrary to CS Core Policies 4 and 14 and LP Policies LBD1, EN1 and EN25. Among other things, these policies seek to ensure that development has minimal impact on landscape character and no detrimental impact on the landscape setting of settlements. Furthermore, the proposal would also fail to accord with the Framework insofar as it seeks to conserve and enhance the natural environment and achieve well-designed places that are sympathetic to local character.

Highway safety

21. The layout of the proposal would include off-street parking provision. Dwellings would each have one parking space with a further space contained within a garage. A shared driveway with turning space would serve the proposed dwellings.
22. The Residential Parking, Kent Design Guide Review, Interim Guidance Note 3 (2008)(KDG) requires that in rural areas new 3 bed dwellings are required to provide a minimum of two independently accessible parking spaces. It specifically precludes space contained within a garage. The KDG goes on to state that in areas without on-street controls, many people do not use garages, even if they have to park on the street as a result. Consequently, the proposed dwellings would fail to accord with the guidance of the KDG.
23. The proposed garages are of a reasonable size to accommodate a parked vehicle and enable some internal storage simultaneously. However, use of a garage to park a motor vehicle is essentially a personal lifestyle choice that is, in my view, not capable of being effectively controlled, nor is the convenience

of electric doors likely to secure its usage for parking a vehicle within it. To my mind, given the limited amount of independently accessible parking space to the front of the dwellings and the nature of the driveway being shared, I consider it likely that parked vehicles will be displaced onto the surrounding road network.

24. At the time of my site visit, I observed Sand Lane to be a relatively straight and narrow rural lane. Whilst the lane received a relatively light flow of traffic, given an absence of parked vehicles within the highway, drivers are able to travel freely along this part of the lane. However, given the constrained width of Sand Lane, a vehicle parked within the highway would pose as a significant obstruction and hazard to travelling vehicles and pedestrians, such that highway safety would be prejudiced.
25. For the reasons given above, I conclude that the proposal would be detrimental to highway safety. Therefore, it would conflict with LP Policies TP4 and TP5 insofar as these seek to ensure new development does not compromise the safe and free flow of traffic or the safe use of the road by others. In addition, it would conflict with the highway safety requirements of the Framework.

Other Matters

26. The appellant has drawn my attention to a number of appeal decisions² in support of its case. In addition, reference has been made to previous developments where vehicle parking standards have been relaxed. However, there is little evidence before me relating to the particular circumstances of those schemes and whether the circumstances are therefore comparable to the proposed development. Moreover, with regards to the Lakeside House appeal, the matters in issue did not concern the accessibility of services and facilities. As such, the circumstances of that appeal are not directly analogous with the appeal proposal before me. In any event, I must consider the appeal proposal on its individual planning merits.
27. The proposal would provide reasonable sized accommodation and outdoor amenity space for future occupants of the dwellings. In addition, the Council have not identified any significant harm to the living conditions of neighbouring occupiers. However, the absence of harm is a neutral factor that weighs neither for nor against the proposal.

Planning Balance

28. It is common ground that the Council are presently unable to demonstrate a five-year supply of land for housing and thus this triggers paragraph 11(d) of the Framework. In such circumstances, the Framework states that policies which are the most important for determining the application should not be considered up-to-date. As such, the Framework dictates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
29. I have concluded that the proposal would conflict with the Council's spatial strategy and not be an appropriate location for residential development. The proposal would conflict with the requirements of LP Policy LBD1 and CS Policies

² APP/M2270/W/17/3171084 Land at Lakeside Farm, The Street, Frittenden, Cranbrook and APP/M2270/A/14/2228680/3001586 Land to the west of Highgate Hill, Hawkhurst, Kent

- 1, 6 and 14. For the reasons given above, these restrictive policies are considered to be out of date and thus the weight I afford to the policies' conflict is limited. Notwithstanding this, CS Core Policy 5, seeks to assist with the achievement of carbon reduction targets. This is consistent with the aims of the Framework to plan for developments in locations that can help to reduce greenhouse gas emissions. Given it is broadly consistent with the Framework, it is a matter to which I attach significant weight.
30. In addition, I have found the proposal to conflict with CS Core Policies 4 and 14 and LP Policies EN1, EN25, TP4 and TP5. By reason of these policies being consistent with the policy aims of the Framework to conserve and enhance the natural environment, achieve well-designed places and protect highway safety, these are also matters to which I attach significant weight.
31. In terms of benefits, there would be some economic uplift during construction through short-term employment and the purchase of building materials. However, such benefits would be modest and temporary. Whilst the Framework seeks to significantly boost the supply of housing and promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities, I do not find that the proposal achieves this by the provision of three dwellings.
32. Albeit the proposal would introduce additional landscaping and make ecological enhancements, this would be a modest environmental benefit.
33. Overall, the planning balance of the Framework requires consideration of the proposal's benefits against the totality of the harm. As such, the limited benefits of the proposal are significantly and demonstrably outweighed by the adverse impacts of the unsustainable location, harm to the character and appearance of the surrounding area and countryside and highway safety. The scheme does not therefore amount to sustainable development. It follows that the conflict with the development plan is not outweighed by the other material considerations.

Conclusion

34. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR