
Appeal Decision

Site visit made on 9 March 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: APP/A2280/W/19/3240114

**The Windmill Inn, Ratcliffe Highway, Hoo St Werburgh, Rochester
ME3 8QB**

- 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 Mrs D Carson against the decision of The Medway Council.
 - The application Ref MC/19/1720, dated 24 June 2019, was refused by notice dated 26 September 2019.
 - The development proposed is 3 No detached residential dwellings including garages to land adjacent to The Windmill Inn.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of proposed development provided on the application form, the scheme includes the provision of a car park. This has the potential to be located on part of the site not currently surfaced or in use as a car park. As the Council considered the proposal on this basis, so shall I.
3. The application was for outline planning permission with all matters reserved. Detailed plans have however been submitted. Despite the lack of corresponding annotation, the appellant has stressed that these are plans illustrative only. However, little or no indication has been offered as to how the designs presented might be changed. Indeed, it is apparent that significant design constraints exist on site, including a pipeline, and the need for customer parking to be located near to the pub. Each limit the scope for alternative layouts. It is also clear that the desire is to construct 3 detached 3-bed houses, rather than any other type, format or configuration of residential development. I have therefore attached significant weight to the designs as submitted, but nonetheless taken into account scope for variation in my reasons below.

Main Issues

4. The main issues are whether the site is a suitable location for development in relation to:
 - its effect on the character and appearance of the area; and
 - access to services by a range of transportation modes.

Reasons

Background

5. Saved Policy BNE25 of the Medway Local Plan 2003 (the Local Plan) seeks to restrict development in the countryside subject to a number of exceptions. None of the stated exceptions would apply to the development in question. In this regard the Council's specific concerns are the effect of the development on the character and appearance of the countryside, and the availability of modes of transport other than private vehicles as a means of accessing services.

Character and appearance

6. The site consists of land attached to the Windmill Inn. Part is currently in use as a hard-surfaced car park area, and the rest is grassed. Ratcliffe Highway is located to the front, and the A228 lies in a cutting to the rear. The edge of the developed area of Hoo St Werburgh lies towards the north-east of the site.
7. The Medway Landscape Character Assessment 2011 (LCA) places the site in the Deangate Ridge character area (the DRCA). The DRCA is noted for its openness, its visual exposure, and its function as a landscape buffer between Chattenden, Lodge Hill and Hoo St Werburgh. Though the appellant considers that the LCA should attract very little weight, I agree with this general characterisation, and consider that buffering function is particularly important insofar as it relates to the separation of Hoo St Werburgh from Chattenden, each of which is currently undergoing expansion through housing development at their edges. Given that the two settlements are directly linked by Ratcliffe Highway, the buffering role, or gap provided by land within the DRCA is clearly appreciable when travelling along it. So too is the relatively small size of the gap in visual terms taking topography into account.
8. In this context the Windmill Inn stands alone towards the centre of the DRCA, in an exposed position more or less on the crest of Deangate Ridge. It lies closer to Hoo St Werburgh than to Chattenden, but nonetheless between the two. Other scattered buildings occur in both directions along Ratcliffe Highway, however on all sides, but most particularly the north/north-west, and south/south-east/south-west, the broader setting consists of largely open land which appears to be in equestrian and agricultural uses. Notwithstanding the physical and audible presence of the A228, the setting is predominantly that of open countryside.
9. The proposed development would thus be both physically and visually prominent. It would be apparent to anyone using Ratcliffe Highway, and would also be noticeable in broader views from the north, including from the A228. Some scope would exist to adjust both scale and landscaping within the context of the reserved matters. However, it is unlikely that the development could be effectively concealed. The location and prominence of the development, combined with an inevitable suburbanisation of the immediate rural setting, would cause significant harm to the character and appearance of the area, appreciably eroding the gap between Hoo St Werburgh and Chattenden.
10. The parties dispute the relevance of paragraph 79 of the Framework, which states that decisions should avoid the development of isolated homes in the countryside. In this regard, given my assessment above, I consider that the

Windmill Inn is physically isolated. It follows that this is also true of the site. The fact that the proposed dwellings would stand close to the Windmill Inn, and would indeed stand close to one another, would not fundamentally alter the isolated nature of the location. Nor would it form a logical means of complying with paragraph 79. In this case the isolated nature of the development would accentuate the intrusive effect that it would have on both its rural setting and the gap between Hoo St Werburgh and Chattenden. As the development would not comply with any of the exceptions set out in paragraph 79, paragraph 79 indicates that a grant of planning permission should be avoided.

11. I acknowledge that housing developments are currently underway on the fringe of Hoo St Werburgh, and that they are occurring on land included within the DRCA. The impact of the proposed development would nonetheless differ, given that it would occupy a more visually and spatially sensitive location, not immediately adjoining Hoo St Werburgh. As such I see no reason why the existence of these housing developments should be held to justify the harm that would be caused by the appeal scheme.
12. I also acknowledge that planning permission was granted in 2015 for a motel on the site. I do not have full details, but I note that this development would have consisted of one low profile, single storey structure, offering good potential for screening. The use would also have been closely related to that of the existing pub. Consequently, though the development would have caused some loss of open character, and would have entailed an increase of built form within the gap between Hoo St Werburgh and Chattenden, it would have been perceived very differently to the residential development currently proposed. As such, I attach limited weight to this previous permission, and it does not alter my opinion of the harm that would be caused by the appeal scheme.
13. The decision notice additionally makes reference to coherence and design, and amenity quality, whilst also citing design related policies set out within the Framework. However, unlike the more fundamental issues considered above, these concerns appear to relate to matters of appearance that could be simply addressed in the context of the reserved matters. Consequently, I cannot identify harm on these grounds.
14. For the reasons set out above I conclude that the development would have an unacceptably adverse effect on the character and appearance of the area. It would therefore conflict with saved Policy BNE25 the Local Plan, which amongst other things states that development will only be permitted if it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside; and saved Policy BNE1 of the Local Plan, insofar as the siting of the development would not be appropriate in relation to the character, appearance and functioning of the built and natural environment.

Transport

15. Future occupants of the development would be able to directly access and make use of the Windmill Inn. The pub would not however fully satisfy day to day needs. In this regard a broader range of services are located in Hoo St Werburgh, and these would see likely use by future occupants.
16. A pavement runs along Ratcliffe Highway, and at its junction with Bells Lane, a second pavement then runs directly into the centre of Hoo St Werburgh. It is therefore possible to walk from the site into Hoo St Werburgh. It is also

possible to walk into Hoo St Werburgh using a public footpath which runs through the field just opposite the site. The walk via the pavement would however be both long and time consuming, the return journey is generally uphill, and some of the route is unlit. The footpath meanwhile is unsurfaced, and was partly flooded at the time of my visit. It is therefore unlikely that future occupants of the development would find walking along either the pavement or the footpath to be an attractive means of routinely accessing services in Hoo St Werburgh.

17. Cycling would offer a possible means of accessing Hoo St Werburgh, and would be quicker than walking. However, the uphill climb and lack of street lighting along part of the route could again reduce the attractiveness of this option.
18. There is no railway station nearby, however bus stops are located in Bells Lane. The walk of around 10 minutes would be undemanding, but almost entirely unlit. In each regard this might again act to reduce the likelihood of bus use.
19. For the above reasons I consider it most likely that future occupants of the development would find private vehicles to offer the most easy and attractive means of accessing services in Hoo St Werburgh. Future occupants would not however be wholly or heavily reliant on private vehicles given the fact that other travel options exist. Though subject to the various limitations noted above, they nonetheless offer the potential for use.
20. Moreover, even though private vehicles would be likely to see the most frequent use, the overall distance travelled to access services in Hoo St Werburgh would not be significantly greater than that travelled by occupants of dwellings on the nearest edge of Hoo St Werburgh itself. In each case the journeys involved would be very short. For these reasons any associated environmental harm would be limited.
21. Notwithstanding the fact that I have found that the site is physically isolated in relation to the character and appearance of the area and paragraph 79 of the Framework, physical isolation does not in this case directly translate to isolation from services.
22. For the reasons outlined above I conclude that the site would not be an unsuitable location for development with regard to access to services via a range of transport modes. Whilst thus complying with one aspect of saved Policy BNE25 of the Local Plan, this would not however alter the existence of broader conflict between the proposal and saved Policy BNE25, as outlined above.

Other Matters

23. The decision notice cited paragraph 78 of the Framework which provides support for development in rural areas where this would enhance or maintain vitality of rural communities. Similar provisions are lacking from saved Policy BNE25 of the Local Plan. However, the advice within paragraph 78 is principally directed towards 'villages' rather than isolated homes which are covered in paragraph 79 of the Framework. I have already found that the latter is applicable to the development, as considered above. Consequently, whether or not future occupants would make use of local services, including the pub, I consider that paragraph 78 offers little support for the scheme. Given the small

- scale of the development any contribution made to vitality would in any case be very limited.
24. The decision notice also cited paragraph 77 of the Framework, which addresses meeting local needs for housing in rural areas, most particularly, for affordable housing. Saved Policy BNE25 again makes no provision for this. I have however been provided with no evidence that the development would meet a specific local need, and it would not provide affordable housing. In this regard I find that paragraph 77 of the Framework has little relevance.
25. The parties agree that the Council does not have a demonstrable 5-year supply (5YHLS) of deliverable housing sites. Whilst I have been provided with no indication by either party of what the level of 5YHLS actually is, it follows that the policies most important for determining the application should be considered out-of-date, and that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the Framework that protect areas or assets of particular importance provide clear reasons for refusal.
26. In this case I am satisfied that even if there was a substantial shortfall in the 5YHLS, the harm that would be caused by the development to the character and appearance of the area would significantly and demonstrably outweigh the limited combined social and economic benefits that would be generated by the construction of 3 houses, including in helping to address the shortfall in 5YHLS.
27. In assessing the scheme the Council considered that the development would have a significant effect on the integrity of the North Kent Marshes Special Protection Area (SPA) and Ramsar sites due to increased recreational pressure. This is because increased visits to the sites would result in harmful disturbance of the bird species for which they have been designated. These were not however referenced in the decision notice, which instead named the Thames Estuary and Marshes SPA, and Medway Estuary and Marshes SPA.
28. Though no Appropriate Assessment (AA) of the scheme was undertaken, the officer report identified the need for a mitigatory financial contribution which would be used to fund strategic access management and monitoring measures. Planning permission was partly refused on the basis that no contribution had been secured, however, as noted above, the named habitats sites are inconsistent. Though the appellant has stated that they would be prepared to pay the contribution, no payment has subsequently occurred, and no planning obligation has been submitted.
29. Had I been minded to allow the appeal and the circumstances thus existed in which planning permission could be granted, it would have been necessary for me to seek further information, and to undertake an AA of the scheme in consultation with Natural England, to assessing both the impact of the development, and the need for, and effectiveness of any proposed mitigation. As I am dismissing the appeal for other reasons however, it is not necessary for me to consider this matter any further.

Conclusion

30. For the reasons set out above I find that material considerations do not indicate that the appeal should be determined other than in accordance with

the development plan. I conclude therefore that the appeal should be dismissed.

Benjamin Webb

INSPECTOR