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## Appeal Decision

Site visit made on 7 July 2020

**by Andre Pinto BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 October 2020**

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**Appeal Ref: APP/A2280/W/20/3244579**

**Land West of Newlands Farm Road, St Mary Hoo, Rochester ME3 8RE**

- 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 Ms Sally Brimicombe against the decision of The Medway Council.
  - The application Ref MC/19/1683, dated 16 August 2019, was refused by notice dated 6 December 2019.
  - The development proposed is change of use of land to residential comprising the conversion and extension of existing stable building to accommodate a four bedroom bungalow with associated parking, amenity space and access from Newlands Farm Road.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have adopted the description of the development included in the Council's Decision Notice and amended it in order to more accurately reflect the proposed development.

### Main Issues

3. The main issues are:
  - Whether the development would constitute sustainable development in accordance with national and local planning policies; and
  - The effects of the proposed development on the character and appearance of the area.

### Reasons

#### *Sustainable Development*

4. The appeal is for the conversion of the existing stable building and expansion of its footprint to accommodate a four bedroom residential unit, with associated parking, amenity space and access.
5. The Council acknowledges that it cannot currently demonstrate a deliverable five year supply of land for housing and, in line with footnote 7 to paragraph 11 d) of the National Planning Policy Framework (the Framework), permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in

the Framework taken as a whole. I will address this issue in the *Planning balance* section of my decision below.

6. The Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land. Considering the use and existing structures within the appeal site, the site falls within the Framework's definition of previously developed land and should be considered as such for decision-making purposes.
7. The appeal site is located on the western side of Newlands Farm Road in a quiet, rural, verdant, open area, outside of any settlement boundary. Although the appeal site is located in relative proximity to the rear of Forge Cottages, it is surrounded by open agricultural fields. Therefore, the proposal would constitute development in the countryside, as the proposal is located outside of any recognised town or rural settlement.
8. Policy BNE25 of the Medway Local Plan (2003) (the Local Plan) states that development in the countryside will only be permitted if it maintains, and wherever possible, enhance the character, amenity and functioning of the countryside and it offers a realistic chance of access from a range of transport modes.
9. The appeal site is within a few minutes walking distance of a bus stop and some other support services, including a convenience store. Nevertheless, functionally and spatially, the site relates more to the open verdant fields that surround it, rather than residential development along Fenn Street; the appeal site does not share a boundary with Forge Cottages, access to the site is secured via an unnamed road off Newlands Farm Road, and its use as stables is associated with outdoor and recreational activities in the countryside.
10. Paragraph 78 of the Framework states that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, so as to promote sustainable development. The present proposal would result in additional housing in the countryside, outside of any recognised town or rural settlement, therefore contributing to an increasing in the dispersion of housing in rural areas.
11. Although the appeal site is in close proximity to some of the support services that underpin sustainable development and it is previously developed land, the proposal would lead to the further urbanisation of the area in which the site is located, in the countryside. This is not in accordance with Paragraph 8c) of the Framework, which states that sustainable development means protecting and enhancing the natural environment.
12. In conclusion, the proposal would not constitute sustainable development, in line with national and local planning policy. Therefore, and in that regard, the proposal would be contrary to Policy BNE25 of the Local Plan, which sets out the type of development that is acceptable in the countryside, and paragraphs 8c) and 78 of the Framework, which set out the approach to achieving sustainable development and rural housing.

#### *Character and appearance of the countryside*

13. The character and appearance of the area is rural as defined by the open agricultural land that surrounds the appeal site. Although there are some developments in the proximity of the site, the appeal site is still at some

distance from these and therefore more embedded within the rural, open landscape that defines the character and appearance of the area.

14. The site's rural context is further established by its access. While Forge Cottages relate to, and are accessed directly from, Fenn Street, the proposed development would be accessed from Newlands Farm Road, a significantly more rural road, quite different in character and appearance to Fenn Street.
15. Policies BNE1 and BNE25 of the Local Plan seek to ensure that the design of new development is appropriate in relation to the character and appearance of the built and natural environment and that the intrinsic character and beauty of the countryside is protected. Paragraph 170b states that planning decisions should recognise the intrinsic character and beauty of the countryside.
16. The proposal is intended to be sympathetic to the character and appearance of the surrounding countryside and would echo in its design some of the original agricultural features of the existing stables, in an attempt to better integrate with the surrounding landscape. I also note that the proposal would not result in an increase in height compared to the existing building although it would result in the expansion of the existing built form by approximately 50%.
17. In addition to the significant proposed increase in the overall mass of the built form, the appeal would result in the creation of a residential dwelling which could potentially be permanently occupied. If this were to be the case, it would be reasonable to expect that external signs of its permanent occupation would become apparent, such as the parking of vehicles and the introduction of other domestic paraphernalia. These visual signs of permanent occupation of a residential dwelling would detract from the open and verdant character and appearance of the area.
18. For the foregoing reasons, therefore, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, in that regard, it would conflict with policies BNE1 and BNE25 of the Local Plan, which aim to secure good design that is appropriate to the character and appearance of the built and natural environment and respects the intrinsic character and beauty of the countryside, as well as with the Framework.

#### *Planning balance*

19. The benefits of the proposed development primarily relate to its modest, but nonetheless positive contribution to the housing supply, those associated with the construction process and the spending potential of future occupants. Furthermore, and weighing in favour of the proposal, is the fact that the development would make greater use of previously developed land.
20. Nevertheless, the Framework requires me to ensure that development recognises the intrinsic character and beauty of the countryside and adds to the overall quality of the area, not just for the short term, but over the lifetime of the development.
21. I am mindful of the fact that Policy BNE25 of the Local Plan is not wholly consistent with the Framework in so far as it is more restrictive. Despite this, its overall aim of protecting the character and appearance of the countryside is in line with the objectives of sustainable development as set out in the Framework. I therefore give this policy moderate weight.

22. The Framework also requires me to afford significant weight to the need to achieve sustainable development, which includes the protection and enhancement of the natural environment. These factors weight heavily against the proposal.
23. As I have found that the proposal would harm the character and appearance of the area by detracting from its the open and verdant character and lead to additional rural housing in a location that would not constitute sustainable development, overall and in accordance with paragraph 11 of the Framework, would be significantly and demonstrably outweighed by the harm identified when assessed against the policies in the Framework as a whole, considering the modest scale of the development and associated benefits as previously set out.

### **Other Matters**

24. The appellant has brought to my attention that consideration should be given to application MC/18/1745 and MC/19/1044, both relating to residential dwellings in close proximity to the site. The appellant also claims that the implementation of appeal MC/19/1044 will result in a pair of semi-detached dwellings immediately adjacent to the appeal site. This is not contested by the Council.
25. Although I have taken the above mentioned applications into account, I only have limited detailed information regarding these appeals and therefore have only given it limited weight. In any case, I must determine the proposal before me on its own merits and for the reasons stated and I consider the proposed development to be harmful.
26. The appeal site falls within the 6km "Zone of Influence" of the North Kent Marshes Special Protection Area, which is internationally important for nature conservation as the area supports important numbers of wintering waterbirds and migrating birds.
27. It is anticipated that, without mitigation, new residential developments in this area and of this scale could have a significant effect on the sensitive interest features of this European designated site, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.
28. Therefore, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) would be required were I minded to allow the appeal. Nevertheless, considering that the appeal is to be dismissed on other issues mentioned in this decision, no further consideration is required on this matter as there is no prospect of planning permission being granted.

### **Conclusion**

29. For the reasons given above, I conclude the appeal should be dismissed.

*Andre Pinto*

INSPECTOR