
Appeal Decision

Site visit made on 1 December 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/E2205/W/20/3258085

High House Business Park, High House Lane, Kenardington, Kent

- 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 Swanage Ltd and Ferry Inn Pension Fund against the decision of Ashford Borough Council.
 - The application Ref 20/00156/AS, dated 29 January 2020, was refused by notice dated 13 May 2020.
 - The development proposed is erection of 7no. residential dwellings (Use Class C3) with associated access, parking, landscaping and private amenity space.
-

Decision

1. I dismiss the appeal.

Preliminary Finding

2. Reason for Refusal 2 concerned a lack of information on refuse vehicle access. The appellant later submitted a vehicle tracking plan, which shows that large goods vehicles such as a refuse lorry can enter the site, reach the far end, reverse-turn and leave the site in forward gear. In light of this information, the Council conceded on that Reason for Refusal, and it is concluded that the requirements of '*Design Guidance Note 1: Residential Layouts & Wheeled-bins*' can be met.

Main Issue

3. The remaining issue is therefore the effect of the proposal on the aims of policies which seek to promote sustainable development.

Reasons

4. Policy SP1 of the Local Plan states strategic objectives including that of focussing development at accessible and sustainable locations which utilise existing infrastructure, facilities and services wherever possible, and making best use of suitable brownfield opportunities. Residential windfall development in the countryside is the subject of Policy HOU5; sites adjoining or close to named settlements will be acceptable subject to criteria. Elsewhere, residential development will be permitted in stated and restricted circumstances. The National Planning Policy Framework sets out the 3 overarching objectives of sustainable development at paragraph 8.
5. The site is an unused area of land close to the buildings on the business park and would be accessed off a private drive which serves in addition some

- residential properties across a green area to the north. There is a dense belt of trees and hedging between it and the public road and a sparser arrangement of similar bordering the access drive.
6. The proposal would be windfall development in the countryside and Kenardington is not on the list of settlements in Policy HOU5 where residential development adjoining or close to the existing built-up area would be acceptable. The nearest listed settlement to the appeal site is Ham Street where there is a range of facilities including a railway station and the site cannot reasonably be described as 'adjoining or close' to that place.
 7. The second limb of Policy HOU5 lists types of development that could be considered acceptable away from the stated settlements, and the proposal is not for any of those uses. The lists of uses is similar to that in paragraph 79 of the Framework albeit the reference to 'isolated' has to be considered in relation to the 'Braintree' judgments.
 8. The proposal is therefore contrary to the strategic objective set out in Policy SP1 to focus development at accessible and sustainable locations, and the location of the site does not allow the development to take advantage of the provisions of either limb of Policy HOU5. The proposal is contrary to the Development Plan and in line with section 38(6) of the Planning and Compulsory Purchase Act 2004, permission should be refused unless material considerations indicate otherwise.
 9. Kenardington is listed in Policy HOU3a on residential windfall development within settlements, but the Village Confines Extract supplied by the Council in their Annex 2 confirms that the site is within neither of the 2 separate red-line boundaries, they being tightly drawn around built form and curtilage, and include the residential uses to the north of the site, accessed from the driveway. This Policy does not therefore apply.
 10. The appellant considers the approach 'somewhat flawed' and that the appeal proposals are no less or more sustainable than a development site within the confines of Kenardington, where in principal, planning permission would be supported. It is the case that any journey from the appeal site would pass through one or other of the 2 red-line boundaries for Kenardington and could conceivably pass a site found acceptable for residential use under Policy HOU3a. In addition, access to Ham Street from the southern red-line area would entail passing the appeal site.
 11. However, the Local Plan was adopted as recently as February 2019 and the ramifications of wording and boundaries would have been thoroughly considered, with opportunity to put sites forward. Policy HOU3a is deliberately restrictive and Policy HOU5 is limited to settlements that were considered to meet certain criteria, both in line with the strategic objectives in Policy SP1.
 12. The Officer's Report under the heading 'visual amenity' identifies no actual visual harm, but does erroneously state compliance with Policy HOU3a, which cannot be the case due to the location. The Reason for Refusal does not allege specific harm, although it does state that the proposal would be detrimental to the environment.
 13. The road to Ham Street varies between open fast stretches and more enclosed parts and would not be an attractive or particularly safe route for walking or

cycling, apart from the matter of distance. Warehorne, another Policy HOU3a settlement, is closer and does have a public house, but would still require use of much of the fast B2067 road towards Ham Street. The conclusion is that for most day-to-day requirements, a private vehicle would likely be used, a mode of transport that would cause harm to the environment through greater journey lengths and congestion at the destination, than a site in Policy HOU5 settlements where destinations could be reached on foot or by more sustainable means.

14. The appellant points to changes in journey patterns as a result of the Covid-19 pandemic, and it is certainly the case that some jobs can be carried out from home, but not all. It could be that this pattern will remain in place beyond the pandemic, and the role of town centres will also change. A review of the Local Plan would need to consider the situation pertaining at the time.
15. There is no claim that the Council are unable to demonstrate a robust 5-year supply of housing land as required by the Framework and development was seen proceeding at Ham Street and near Ashford. The 'tilted balance' in paragraph 11 of the Framework is not engaged as there are relevant and up-to-date policies with stated objectives as to the location of development. The corollary of paragraph 11c) should be applied; development that does not accord with the up-to-date Development Plan should be refused.
16. Paragraph 59 does state the Government's objective of significantly boosting the supply of homes, and the 5-year figure should not be taken as a maximum. However, one of the 3 overarching objectives for achieving sustainable development is that land is available in the right place, and this site is not in such a location. The social objective could be furthered through supporting local services, but in line with paragraph 78 of the Framework, policies have identified opportunities for villages to grow and this would have taken account of the likelihood of development in one village supporting the services in another nearby. As a result of the location, the development would not further the environmental objective despite making effective use of this land.
17. To conclude, there are no other considerations sufficient to set aside the Development Plan policies on the location of residential development and the requirements of Policies SP1 and HOU5 should prevail. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR