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# Appeal Decision

Site visit made on 16 February 2021

**by S J Papworth DipArch(Glos) RIBA**

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

**Decision date: 23 February 2021**

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**Appeal Ref: APP/E2205/W/20/3260497**

**Land r/o Old Mill House, Bowl Road, Charing, Kent TN27 0NH**

- 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 Mr A Ott against the decision of Ashford Borough Council.
  - The application Ref 20/00567/AS, dated 1 May 2020, was refused by the Council by notice dated 20 July 2020.
  - The development proposed is single detached dwelling that has a single storey above ground above a subterranean level.
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## Decision

1. I dismiss the appeal.

## Preliminary Matters

2. The application was made on a form headed 'Application for Outline Planning Permission' and the description of the proposal in Section 3 was stated to be '*new residential dwelling of innovative design and exceptional quality that will enhance the immediate setting significantly, single detached dwelling that has a single storey above ground above a sub-terranean level*'. Where it was required to indicate those reserved matters for which approval was being sought, all of the options of access, appearance, landscaping, layout and scale were ticked. The appellant now says that this was in error and that the intention was to test the principle of development, with access, landscape and layout reserved.
3. The Officer's Assessment Sheet makes clear that the proposal was judged as being in outline with the above 5 matters to be determined, and the Reasons for Refusal alleged an absence of detailed information regarding access and landscaping to allow a full assessment to be made, in addition to locational shortcomings and harm to the Area of Outstanding Natural Beauty. This Appeal must be judged on the same basis.

## Main Issue

4. This is the effect of the proposal on the aims of policies regarding the location of development including the character and appearance of the North Kent Downs Area of Outstanding Natural Beauty.

## Reasons

5. Local Plan Policy SP1 states the strategic objectives as to the location of development, conserving the environment, high quality design and providing a

mix of housing types and sizes. Housing delivery under Policy SP2 is to include windfall development, with development in rural areas to be of a scale consistent with accessibility and environmental sensitivity among other matters while Policy SP6 promotes high quality design. Charing is listed in Policy HOU5 as a settlement where windfall development could be appropriate adjoining or close to, provided that each of criteria a) to f) are met. Policy HOU10 provides for the complete or partial redevelopment of residential gardens subject to Policy HOU5 and requirements on the character of the area. Policy ENV3b is specific to the landscape character and design in the Area of Outstanding Natural Beauty.

6. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues, and the scale and extent of development within these designated areas should be limited.
7. The initial wording on the Application Form concerning innovative design, exceptional quality and the enhancement of the immediate setting is similar to that in the second part of Policy HOU5 for proposals in the countryside other than adjoining or close to the listed settlements, and makes reference to such proposals being referred to the Ashford Design Panel. Similar requirements are contained in paragraph 79 of the Framework for isolated dwellings, but in line with the Braintree judgements, this site should not be considered 'isolated' due to the proximity of other dwellings, and the Officer's Assessment takes that view also.
8. It is first necessary to determine which part of Policy HOU5 the proposal should be tested against. The site may be said to be 'close to' the built confines of Charing, and a single dwelling would not conflict with criterion a) on scale. But, criterion b) requires the site to be within easy walking distance of basic day-to-day services, with the preamble referring to an 'easy walking distance of 800m'. The site is stated to be 965m from the village centre, and moreover, the route is not pleasant or easy in places where the wide and busy A252 Charing Hill has to be crossed. The difference in elevation between the village and the site would make the return journey on foot or by cycle tiring and not conducive to carrying shopping. For these reasons criterion d) on access other than by a private vehicle would not likely be met.
9. The vehicle access is shown to be from The Wynd, a narrow hilly road, but the gate is only a short distance from the entry onto the main road where the bellmouth is wider and sightlines good. Being on the outside of the sharp bend in The Wynd, conflict with other traffic on that short stretch would be unlikely and should not result in either vehicle having to stop on the main road. Subject to details being confirmed, criterion c) could be satisfied.
10. With regard to criteria e) and f), the lack of detail provided hinders consideration, but the site is presently an undeveloped open land with grass and some spring bulbs evident, and forms a pleasant continuation of the open more wooded areas to the north and south of the slope. The proposed 'digging-in' and grass roof could limit the visual impact from the track and

adjacent dwellings to an extent, but domestic paraphernalia in the garden area would signal residential use and the large areas of glazing indicated, and likely to be sought in order to take advantage of the views, could be seen as reflections in longer daytime views and as lit areas at night. The design indicated would not be consistent with the local character.

11. In view of the wording on the Application Form, and the findings as to the location relative to Charing, it is reasonable to consider the performance of the proposal against the second limb of Policy HOU5 for residential development in the countryside. Whilst the exception in Framework Paragraph 79e) for exceptional design is not available since the site is not truly 'isolated' in the post Braintree sense, the Local Plan policy does not adopt that criterion, and uses the term 'countryside'.
12. However, whether the national or the local terms are appropriate, the need to demonstrate an exceptional quality requires a fully detailed application backed by a thoroughly researched and detailed design, which this application fails to provide. The Officer's views that it was not appropriate to seek the Design Panel's views is understandable. Whilst ordinarily, landscape may be dealt with by condition, schemes promoted as exceptional quality should be expected to integrate planting and external works within an holistic design.
13. The site is within an Area of Outstanding Natural Beauty which has the highest status of protection in relation to conserving and enhancing landscape and scenic beauty, and the site displays a high quality of those features, as part of the wider landscape along the slope. Whilst it is not impossible to design accordingly, the features of this site militate against a successful outcome and the drawings presented provide no real comfort that the standard could be reached.
14. As submitted the proposal would harm the scenic beauty of the North Kent Downs Area of Outstanding Natural Beauty contrary to Policy ENV3b and national policy and would fail to reach the standard sought in Policies SP2, SP6 and HOU10.
15. The appellant sought to test the suitability of the site for residential development in principle, and the conclusion is that no reasons have been put forward sufficient to set aside the aims of Policy SP1 on the location of development, and as such, permission should be withheld.
16. The Council provided further information on the possible need for mitigation of the effects on the Stodmarsh Lakes, which contain a Special Protection Area for Birds, a Special Area of Conservation, and a RAMSAR Site. The appellant has expressed willingness to accept conditions, and the Council are considering mitigation measures. Were this Decision to be for the grant of permission, a Habitats Regulation Appropriate Assessment would be required, as the Inspector at appeal is the Competent Authority. In view of the conclusion to dismiss the appeal and withhold permission, no further action is required.
17. The appellant has drawn attention to another permission for 4 houses on a site at the top of Charing Hill and further from the village centre (Ref 19/01274/AS) which was in the course of early works at the time of the site inspection. The site is on the main road and close to existing frontage development in a cluster of buildings on both sides of the road. All planning applications have to be determined on their merits and often require a balance of considerations. That

other site is certainly further from services and along the same busy main road, but an important consideration in the appeal scheme is the effect on the Area of Outstanding Natural Beauty even if the second limb of Policy HOU5 is engaged through the site being too far from the village.

### **Conclusions**

18. The site is not well placed for easy access to the village centre and would cause harm to the Area of Outstanding Natural Beauty. Whilst an additional dwelling would assist the aim stated in the Framework of significantly boosting the supply of housing, notwithstanding the fact that the Council can demonstrate a 5 year supply of housing sites, the proposal has not shown compelling reasons why policies which seek to direct residential development to sustainable locations should be set aside. For the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR